

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Nancy L. Lancaster, Editor

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Inquiries concerning administrative rules or other contents of the *Bulletin* may be addressed to the responsible agency or to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone (801) 538-3218, FAX (801) 538-1773. To view rules information, and on-line versions of the division's publications, visit: <http://www.rules.state.ut.us/>

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SPECIAL NOTICES

DEPARTMENT OF COMMERCE

PUBLIC HEARING ON PROPOSED MODIFIED FEE SCHEDULE FOR SERVICES PROVIDED AND COSTS INCURRED BY THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING DURING FISCAL YEAR 2002

The Department of Commerce will hold a hearing on Friday, May 11, 2001, at 9:00 a.m. at the Heber M. Wells Building, 160 East 300 South, Room 205, Salt Lake City, Utah.

The purpose of the hearing is to obtain public comment on proposed schedule for fees which could be assessed for services provided and costs which would be incurred by the Division commencing July 1, 2001. The proposed modified fee schedule supplements the Division's fee schedule approved by the Legislature during its 2001 General Session. Subsection 63-39-3.2(5)(a) of the Budgetary Procedures Act provides an agency may establish and assess regulatory fees without legislative approval. That statute governs the process for the interim assessment of such fees prior to subsequent legislative approval.

Background: The Division assesses fees for licensure, registration, or certification of individuals and businesses to engage in certain occupations and professions. Copies of the proposed modified fee schedule will be distributed at the May 11, 2001, hearing.

For further information, please contact Laura Poe at (801) 530-6789.

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT COMMUNITY DEVELOPMENT, LIBRARY

PUBLIC NOTICE OF AVAILABLE UTAH STATE PUBLICATIONS

The Utah State Library Division has made available Utah State Publications List No. 01-08, dated April 13, 2001 (<http://www.state.lib.ut.us/01-08.html>). For a copy of the complete list, contact the Utah State Library Division at: 1950 West 250 North, Suite A, Salt Lake City, UT 84116-7901; phone: (801) 715-6777; or the Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007; phone: (801) 538-3218; FAX: (801) 538-1773; or view them on the World Wide Web at the address above.

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between April 3, 2001, 12:00 a.m., and April 16, 2001, 11:59 p.m., are included in this, the May 1, 2001, issue of the *Utah State Bulletin*.

In this publication, each PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the PROPOSED RULE is usually printed. New rules or additions made to existing rules are underlined (e.g., example). Deletions made to existing rules are struck out with brackets surrounding them (e.g., [example]). Rules being repealed are completely struck out. A row of dots in the text (••••) indicates that unaffected text was removed to conserve space. If a PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least May 31, 2001. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through August 29, 2001, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

The public, interest groups, and governmental agencies are invited to review and comment on PROPOSED RULES. *Comment may be directed to the contact person identified on the RULE ANALYSIS for each rule.*

PROPOSED RULES are governed by *Utah Code* Section 63-46a-4 (1996); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

Commerce, Corporations and
Commercial Code
R154-2
Utah Uniform Commercial Code,
Revised Article 9 Rules

NOTICE OF PROPOSED RULE

(New)
DAR FILE NO.: 23672
FILED: 04/16/2001, 16:50
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To provide for electronic filing 24/7 and to maintain paperless files; also to clarify filing procedures in S.B. 168 from the 2000 General Legislative Session.

(DAR Note: S.B. 168 is found at 2000 Utah Laws 252 and will be effective July 1, 2001.)

SUMMARY OF THE RULE OR CHANGE: Laws are being enacted in each state to make filing of Uniform Commercial Code (UCC) documents uniform and simple; to provide for electronic filing (standard format) 24/7; and to identify filing office and enumerate procedures.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Chapter 70A, Title 9a

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: \$117,000 appropriated to meet increased work in filings.

❖LOCAL GOVERNMENTS: Because of electronic filings and the change in collateral status, local government may derive a slight savings.

❖OTHER PERSONS: Due to the changes in filing requirements and the addition of electronic filings for UCC filings, industries can send data directly to the database and could see a savings in filing costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Cost of housing any paper documents deemed necessary, cost of data entry for electronic filing, and savings of forms.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses should recognize a significant savings in resources; UCC data will be collected and entered only once and then transmitted to filing office.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Commerce
Corporations and Commercial Code
Heber M. Wells Bldg.
160 East 300 South
PO Box 146705
Salt Lake City, UT 84114-6705, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kathy Berg at the above address, by phone at (801) 530-6216, by FAX at (801) 530-5438, or by Internet E-mail at kberg@br.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 06/01/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2001

AUTHORIZED BY: Kathy Berg, Director

R154. Commerce, Corporations and Commercial Code.

R154-2. Utah Uniform Commercial Code, Revised Article 9 Rules.

R154-2-100. Authority and Purpose.

These rules are adopted by the division under the authority of Subsections 46-1-2(1) and 46-1-2(11)(c), to enable the division to facilitate the implementation of the Revised Article 9 of the Uniform Commercial Code.

R154-2-101. Place to File.

The filing office is the office for filing UCC documents relating to all types of collateral except for timber to be cut, as-extracted collateral and, when the relevant financing statement is filed as a fixture filing, goods which are or are to become fixtures.

R154-2-102. Filing Office Identification.

In addition to the promulgation of these rules, the filing office will disseminate information of its location, mailing address, telephone and fax numbers, and its internet and other electronic "addresses" through usual and customary means.

102.1 On-line information service. The filing officer offers on-line information services at the agency's web site.

R154-2-103. Office Hours.

Although the filing office maintains regular office hours, it receives transmissions electronically and by telecopier 24 hours per day, 365 days per year, except for scheduled maintenance and unscheduled interruptions of service. Electronic communications may be retrieved and processed periodically (but no less often than once each day the filing office is open for business) on a batch basis.

R154-2-104. UCC Document Delivery.

UCC documents may be tendered for filing at the filing office as follows.

104.1 Personal delivery, at the filing office street address. The file time for a UCC document delivered by this method is when delivery of the UCC document is received by the filing office (even though the UCC document may not yet have been accepted for filing and subsequently may be rejected).

104.2 Courier delivery, at the filing office street address. The file time for a UCC document delivered by this method is, notwithstanding the time of delivery, at the earlier of the time the UCC document is first examined by a filing officer for processing (even though the UCC document may not yet have been accepted

for filing and may be subsequently rejected), or the next close of business following the time of delivery. A UCC document delivered after regular business hours or on a day the filing office is not open for business will have a filing time of the close of business on the next day the filing office is open for business.

104.3 Postal service delivery, to the filing office mailing address. The file time for a UCC document delivered by this method is the next close of business following the time of delivery (even though the UCC document may not yet have been accepted for filing and may be subsequently rejected). A UCC document delivered after regular business hours or on a day the filing office is not open for business will have a filing time of the close of business on the next day the filing office is open for business.

104.4 Electronic delivery. UCC documents may be submitted electronically via the agency's online services portal. The file time for a UCC document delivered by this method is the time that the filing office's system analyzes the relevant transmission and determines that all the required elements of the transmission have been received in a required format and are machine-readable.

R154-2-105. Search Request Delivery.

UCC search requests may be delivered to the filing office by any of the means by which UCC documents may be delivered to the filing office. Requirements concerning search requests are set forth in rule R154-2-149.

R154-2-106. Filing Fees.

Filing fees will be established by the Utah State Legislature in conjunction with the annual budgetary process and current fees will be posted on the division web page and available at the filing office.

R154-2-107. Methods of Payment.

The division will enhance payment options as they become available. Filing fees and fees for public records services may be paid by the following methods.

107.1 Cash. The filing officer discourages cash payment unless made in person to the cashier at the filing office.

107.2 Checks. Checks made payable to the filing office or the State of Utah, including checks in an amount to be filled in by a filing officer but not to exceed a particular amount, will be accepted for payment.

107.3 Credit card. The filing office accepts payments using credit cards issued by approved credit card issuers. A current list of approved credit card issuers is available from the filing office. Remitters shall provide the filing officer with the card number, the expiration date of the card, the name of the approved card issuer, the name of the person or entity to whom the card was issued and the billing address for the card. Payment will not be deemed tendered until the issuer or its agent has confirmed to the filing office that payment will be forthcoming.

R154-2-108. Overpayment and Underpayment Policies.

108.1 Overpayment. Overpayment will be handled in accordance with State and/or Agency refund policy.

108.2 Underpayment. Upon receipt of a document with an insufficient fee, the document shall be rejected as provided in rule R154-2-118.

R154-2-109. Fees for Public Records Services.

Fees for public records services are posted on the web page or at the filing office.

R154-2-110. New Practices and Technologies.

The filing officer is authorized to adopt practices and procedures to accomplish receipt, processing, maintenance, retrieval and transmission of, and remote access to, Article 9 filing data by means of electronic, voice, optical and/or other technologies, and, without limiting the foregoing, to maintain and operate, a non-paper-based Article 9 filing system utilizing any of such technologies. In developing and utilizing technologies and practices, the filing officer shall, to the greatest extent feasible, take into account compatibility and consistency with, and whenever possible be uniform with, technologies, practices, policies and regulations adopted in connection with Article 9 filing systems in other states.

R154-2-111. The Duties and Responsibilities of the Filing Officer with Respect to the Administration of the UCC Are Ministerial.

In accepting for filing or refusing to file a UCC document pursuant to these rules, the filing officer does none of the following:

111.1 Determine the legal sufficiency or insufficiency of a document.

111.2 Determine that a security interest in collateral exists or does not exist.

111.3 Determine that information in the document is correct or incorrect, in whole or in part.

111.4 Create a presumption that information in the document is correct or incorrect, in whole or in part.

R154-2-112. Duty to File.

Provided that there is no ground to refuse acceptance of the document under rule R154-2-115, a UCC document is filed upon its receipt by the filing officer with the filing fee and the filing officer shall promptly assign a file number to the UCC document and index it in the information management system.

R154-2-113. Grounds for Refusal of UCC Document.

The following grounds are the sole grounds for the filing officer's refusal to accept a UCC document for filing. As used herein, the term "legible" is not limited to refer only to written expressions on paper: it requires a machine-readable transmission for electronic transmissions and an otherwise readily decipherable transmission in other cases.

113.1 Debtor name and address. An initial financing statement or an amendment that purports to add a debtor shall be refused if the document fails to include a legible debtor name and address for a debtor, in the case of an initial financing statement, or for the debtor purporting to be added in the case of such an amendment. If the document contains more than one debtor name or address and some names or addresses are missing or illegible, the filing officer shall index the legible name and address pairings, and provide a notice to the remitter containing the file number of the document, identification of the debtor name(s) that was (were) indexed, and a statement that debtors with illegible or missing names or addresses were not indexed.

113.2 Additional debtor identification. An initial financing statement or an amendment adding one or more debtors shall be refused if the document fails to identify whether each named debtor (or each added debtor in the case of such an amendment) is an individual or an organization, if the last name of each individual debtor is not identified, or if, for each debtor identified as an organization, the document does not include in legible form the organization type, state of organization and organization number (if it has one) or a statement that it does not have one.

113.3 Secured party name and address. An initial financing statement, an amendment purporting to add a secured party of record, or an assignment, shall be refused if the document fails to include a legible secured party (or assignee in the case of an assignment) name and address. If the document contains more than one secured party (or assignee) name or address and some names or addresses are missing or illegible, the filing officer shall index the legible name and address pairings, and provide a notice to the remitter containing the file number of the document, identification of the secured party (or assignee) names that were indexed, and a statement that secured parties with illegible or missing names or addresses were not indexed.

113.4 Lack of identification of initial financing statement. A UCC document other than an initial financing statement shall be refused if the document does not provide a file number of a financing statement in the UCC information management system that has not lapsed.

113.5 Identifying information. A UCC document that does not identify itself as an amendment or identify an initial financing statement to which it relates, is an initial filing statement.

113.6 Timeliness of continuation. A continuation shall be refused if it is not received within six months prior to expiration or the first working day after that period.

113.6.1 First day permitted. The first day on which a continuation may be filed is the date of the month corresponding to the date upon which the financing statement would lapse, six months preceding the month in which the financing statement would lapse. If there is no such corresponding date during the sixth month preceding the month in which the financing statement would lapse, the first day on which a continuation may be filed is the last day of the sixth month preceding the month in which the financing statement would lapse, although filing by certain means may not be possible on such date if the filing office is not open on such date.

113.6.2 Last day permitted. The last day on which a continuation may be filed is the date upon which the financing statement lapses.

113.7 Fee. A document shall be refused if the document is accompanied by less than the full filing fee tendered.

113.8 Means of communication. UCC documents communicated to the filing office by a means of communication not authorized by the filing officer for the communication of UCC documents shall be refused.

R154-2-114. Grounds Not Warranting Refusal.

The sole grounds for the filing officer's refusal to accept a UCC document for filing are enumerated in rule R154-2-115. The following are examples of defects that do not constitute grounds for refusal to accept a document. They are not a comprehensive enumeration of defects outside the scope of permitted grounds for refusal to accept a UCC document for filing.

114.1 Errors. The UCC document contains or appears to contain a misspelling or other apparently erroneous information.

114.2 Incorrect names.

114.2.1 The UCC document appears to identify a debtor incorrectly.

114.2.2 The UCC document appears to identify a secured party or a secured party of record incorrectly.

114.3 Extraneous information. The UCC document contains additional or extraneous information of any kind.

114.4 Insufficient information. The UCC document contains less than the information required by Article 9 of the UCC, provided that the document contains the information required in rule R154-2-116.

114.5 Collateral description. The UCC document incorrectly identifies collateral, or contains an illegible or unintelligible description of collateral, or appears to contain no such description.

114.6 Excessive fee. The document is accompanied by funds in excess of the full filing fee.

R154-2-115. Time Limit.

The filing officer shall determine whether criteria exist to refuse acceptance of a UCC document for filing not later than the second business day after the date the document would have been filed had it been accepted for filing and shall index a UCC document not so refused within the same time period.

R154-2-116. Procedure Upon Refusal.

If the filing officer finds grounds under rule R154-2-115 to refuse acceptance of a UCC document, the filing officer shall return the document, if written, to the remitter. The filing office shall send a notice that contains the date and time the document would have been filed had it been accepted for filing (unless such date and time are stamped on the document), and a brief description of the reason for refusal to accept the document under rule R154-2-115. The notice shall be sent to a secured party or the remitter no later than the second business day after of the determination to refuse acceptance of the document. A refund may be delivered with the notice or under separate cover.

R154-2-117. Acknowledgment.

At the request of a filer or remitter who files a paper or paper-based UCC document, the filing officer shall either (i) send to said filer or remitter an image of the record of the UCC document showing the file number assigned to it and the date and time of filing or, (ii) upon the original of such paper or paper-based UCC document, note the file number and the date and time of filing on the copy and deliver or send it to said filer or remitter. For UCC documents not filed in paper or paper-based form the filing officer shall communicate to the filer or remitter the information in the filed document, the file number and the date and time of filing.

R154-2-118. Other Notices.

Nothing in these rules prevents a filing officer from communicating to a filer or a remitter that the filing officer noticed apparent potential defects in a UCC document, whether or not it was filed or refused for filing. However, the filing office is under no obligation to do so and may not, in fact, have the resources to do so or to identify such defects. THE RESPONSIBILITY FOR THE LEGAL EFFECTIVENESS OF FILING RESTS WITH FILERS

AND REMITTERS AND THE FILING OFFICE BEARS NO RESPONSIBILITY FOR SUCH EFFECTIVENESS.**R154-2-119. Division Director Discretion.**

The Director of the Division of Corporations and Commercial Code shall have discretionary authority according to UCA Subsection 13-1a-6(1) to refuse to file a document which is determined to be non-compliant with UCA Sections 70A-9a-501 through 70A-9a-527.

R154-2-120. Refusal Errors.

If a secured party or a remitter demonstrates to the satisfaction of the filing officer that a UCC document that was refused for filing should not have been refused under rule R154-2-115, the filing officer will file the UCC document as provided in these rules with a filing date and time assigned when such filing occurs. The filing officer will also file a correction statement (and such demonstration of error shall constitute the secured party's authorization to do so) that states that the effective date and time of filing is the date and time the UCC document was originally tendered for filing, and sets forth such date and time.

R154-2-121. UCC Information Management System.

The filing officer uses an information management system to store, index, and retrieve information relating to financing statements. The information management system includes an index of the names of debtors named on financing statements which have not lapsed. The rules in this section describe the UCC information management system.

R154-2-122. Primary Data Elements.

The primary data elements used in the UCC information management system are the following.

122.1 Identification numbers.

122.1.1 Each initial financing statement is identified by its file number. Identification of the initial financing statement is applied to written UCC documents or otherwise permanently associated with the record maintained for UCC documents in the UCC information management system. A record is created in the information management system for each initial financing statement and all information comprising such record is maintained in such system. Such record is identified by the same information assigned to the initial financing statement.

122.1.2 A UCC document other than an initial financing statement is identified by a the initial UCC file number assigned by the filing officer. In the information management system, records of all UCC documents other than initial financing statements are linked to the record of their related initial financing statement.

122.2 Type of document. The type of UCC document from which data is transferred is identified in the information management system from information supplied by the remitter.

122.3 Filing date and filing time. The filing date and filing time of UCC documents are stored in the information management system. Calculation of the lapse date of an initial financing statement is based upon the filing date.

122.4 Identification of parties. The names and addresses of debtors and secured parties are transferred from UCC documents to the UCC information management system using one or more data entry or transmittal techniques.

122.5 Status of financing statement. In the information management system, each financing statement has a status of active or inactive.

122.6 Page count. The total number of pages in a UCC document is maintained in the information management system.

122.7 Lapse indicator. An indicator is maintained by which the information management system identifies whether or not a financing statement will lapse and, if it does, when it will lapse. The lapse date is determined as provided in rule R154-2-134.

R154-2-123. Names of Debtors Who Are Individuals.

For the purpose of this rule, "individual" means a human being, or a decedent in the case of a debtor that is such decedent's estate. This rule applies to the name of a debtor or a secured party on a UCC document who is an individual.

123.1 Individual name fields. The names of individuals are stored in fields that include only the names of individuals, and not the names of organizations. Separate data entry fields are established for first (given), middle (given), and last names (surnames or family names) of individuals. The filing officer assumes no responsibility for the accurate designation of the components of a name but will accurately enter the data in accordance with the filer's designations.

123.2 Titles and prefixes before names. Titles and prefixes, such as "doctor," "reverend," "Mr.," and "Ms.," should not be entered in the UCC information management system. However, as provided in rule R154-2-137, when a UCC document is submitted with designated name fields, the data will be entered in the UCC information management system exactly as it appears.

123.3 Titles and suffixes after names. Titles, suffixes or indications of status such as "M.D." and "esquire" and "senior, junior, III, etc." shall not be entered in the UCC information management system.

123.4 Truncation - individual names. Personal name fields in the UCC database are fixed in length. Although filers should continue to provide full names on their UCC documents, a name that exceeds the fixed length is entered as presented to the filing officer, up to the maximum length of the data entry field. The length of data entry name fields are as follows.

123.4.1 First name: 14 characters.

123.4.2 Middle name: 14 characters.

123.4.3 Last name: 14 characters.

R154-2-124. Names of Debtors That Are Organizations.

This rule applies to the name of an organization who is a debtor or a secured party on a UCC document. These names are not case-sensitive.

124.1 Single field. The names of organizations are stored in fields that include only the names of organizations and not the names of individuals. A single field is used to store an organization name.

124.2 Truncation -organization names. The organization name field in the UCC database is fixed in length. The maximum length is 50 characters. Although filers should continue to provide full names on their UCC documents, a name that exceeds the fixed length is entered as presented to the filing officer, up to the maximum length of the data entry field.

R154-2-125. Estates.

Although they are not human beings, estates are treated as if the decedent were the debtor under rule 125.

R154-2-126. Initial Financing Statement.

Upon the filing of an initial financing statement the status of a debtor named on the document shall be active and shall continue as active until one year after the financing statement lapses.

R154-2-127. Amendment.

Upon the filing of an amendment the status of the parties and the status of the financing statement shall have no effect upon the status of any debtor or secured party so long as the amendment is a collateral, address, debtor name, or secured party name change or the addition or deletion of a debtor or secured party.

R154-2-128. Procedure Upon Lapse.

If there is no timely filing of a continuation with respect to a financing statement, the financing statement lapses on its lapse date but no action is then taken by the filing office. On the first anniversary of such lapse date, the information management system renders or is caused to render the financing statement inactive and the financing statement will no longer be made available to a searcher unless inactive statements are requested by the searcher and the financing statement is still retrievable by the information management system.

R154-2-129. XML Documents.

The division may implement, at its own discretion, appropriate means of electronic submission of UCC documents.

R154-2-130. Filing and Data Entry Procedures.

It is the policy of the filing officer to promptly file a document that conforms to these rules. Except as provided in these rules, data is transferred from a UCC document to the information management system exactly as the data are set forth in the document. Personnel who create reports in response to search requests type search criteria exactly as set forth on the search request. No effort is made to detect or correct errors of any kind.

R154-2-131. Document Indexing and Other Procedures Before Archiving.

This section contains a chronological description of the indexing procedures and correspondence procedures followed by the filing officer prior to archiving a UCC document or returning the UCC document to the remitter.

131.1 Date and time stamp. The date and time of receipt are noted on the document or otherwise permanently associated with the record maintained for a UCC document in the UCC information management system at the earliest possible time.

131.2 Cash management. Transactions necessary for payment of the filing fee are performed.

131.3 Document review. The filing office determines whether a ground exists to refuse the document under rule R154-2-115.

131.3.1 File stamp. The document is stamped. If there is no ground for refusal of the document, it is deemed filed and a unique identification number and the filing date is stamped on the document or permanently associated with the record of the document maintained in the UCC information management system.

The sequence of the identification number is not an indication of the order in which the document was received.

131.3.2 Correspondence. If there is a ground for refusal of the document, notification of refusal to accept the document is prepared as provided in rule R154-2-116. If there is no ground for refusal of the document, an acknowledgment of filing is prepared as provided. If the document was tendered in person notice of refusal or acknowledgment of the filing is given to the remitter by personal or USPS delivery. If the document is tendered online such notice or acknowledgment is transmitted to the remitter by online response. For documents submitted in any other way, notice of refusal is sent to the remitter or the first secured party named on the UCC document if so requested by regular mail or by overnight courier if the remitter provides a prepaid waybill or access to the remitter's account with the courier.

131.4 Data entry. Data entry and indexing functions are performed as described in this section.

R154-2-132. Filing Date.

The filing date of a UCC document is the date the UCC document is received with the proper filing fee if the filing office is open to the public on that date or, if the filing office is not so open on that date, the filing date is the next date the filing office is so open, except that, in each case, UCC documents received after 5:00 p.m. shall be deemed received on the following day. The filing officer may perform any duty relating to the document on the filing date or on a date after filing date.

R154-2-133. Filing Time.

The filing time of a UCC document is determined as provided in rule R154-2-104.

R154-2-134. Lapse Date and Time.

A lapse date is calculated for each initial financing statement (unless the debtor is indicated to be a transmitting utility). The lapse date is the same date of the same month as the filing date in the fifth year after the filing date or relevant subsequent fifth anniversary thereof if timely continuation statement is filed. The lapse takes effect at midnight at the end of the lapse date. The relevant anniversary for a February 29 filing date shall be the March 1 in the fifth year following the year of the filing date.

R154-2-135. Errors of the Filing Officer.

The filing office may correct the errors of filing officer personnel in the UCC information management system at any time. If the correction is made after the filing officer has issued a certification date that includes the filing date of a corrected document, the filing officer shall proceed as follows. A record relating to the relevant initial financing statement will be placed in the UCC information management system stating the date of the correction and explaining the nature of the corrective action taken. The record shall be preserved for so long as the record of the initial financing statement is preserved in the UCC information management system.

R154-2-136. Errors Other Than Filing Office Errors.

An error by a filer is the responsibility of such filer. It can be corrected by filing an amendment or it can be disclosed by a correction statement

R154-2-137. Data Entry of Names - Designated Fields.

A filing should designate whether a name is a name of an individual or an organization and, if an individual, also designates the first, middle and last names. When this is done, the following rules shall apply.

137.1 Organization names. Organization names are entered into the UCC information management system exactly as set forth in the UCC document, even if it appears that multiple names are set forth in the document or if it appears that the name of an individual has been included in the field designated for an organization name.

137.2 Individual names. On a form that designates separate fields for first, middle, and last names and any suffix, the filing officer enters the names into the first, middle, and last name fields in the UCC information management system exactly as set forth on the form.

137.3 Designated fields encouraged. The filing office encourages the use of forms that designate separate fields for individual and organization names and separate fields for first, middle, and last names. Such forms diminish the possibility of filing office error and help assure that filers expectations are met. However, filers should be aware that the inclusion of names in an incorrect field or failures to transmit names accurately to the filing office may cause filings to be ineffective. All documents submitted through direct data entry or through electronic means will be required to use designated name fields.

R154-2-138. Data Entry of Names - No Designated Fields.

A UCC document that is an initial financing statement or an amendment that adds a debtor to a financing statement and that fails to specify whether the debtor is an individual or an organization should be refused by the filing office. If it is accepted for filing in error, the following rules shall apply.

138.1 Identification of organizations. When not set forth in a field designated for individual names, a name is treated as an organization name if it contains words or abbreviations that indicate status such as the following and similar words or abbreviations in foreign languages: association, church, college, company, co., corp., corporation, inc., limited, ltd., club, foundation, fund, L.L.C., limited liability company, institute, society, union, syndicate, GmbH, S.A. de C.V., limited partnership, L.P., limited liability partnership, L.L.P., trust, business trust, co-op, cooperative and other designations established by statutes to indicate a statutory organization. In cases where organization or individual status is not designated by the filer and is not clear, the filing officer will use their own judgment.

138.2 Identification of individuals. A name is entered as the name of an individual and not the name of an organization when the name is followed by a title substantially similar to one of the following titles, or the equivalent of one of the following titles in a foreign language: proprietor, sole proprietor, proprietorship, sole proprietorship, partner, general partner, president, vice president, secretary, treasurer, M.D., O.D., D.D.S., attorney at law, Esq., accountant, CPA. In such cases, the title is not entered.

138.3 Individual and organization names on a single line. Where it is apparent that the name of an individual and the name of an entity are stated on a single line and not in a designated individual name field, the name of the individual and the name of the entity shall be entered as two separate debtors, one as an

individual and one as an entity. Additional filing fees for the additional debtor name(s) may be required.

138.4 Individual names. The failure to designate the last name of an individual debtor in an initial financing statement or an amendment adding such debtor to a financing statement should cause a filing to be refused. If the filing is accepted in error, or if only the last name is designated, the following data entry rules apply.

138.4.1 Freestanding initials. An initial in the first position of the name is treated as a first name. An initial in the second position of the name is treated as a middle name.

138.4.2 Combined initials and names. An initial and a name to which the initial apparently corresponds is entered into one name field only (e.g., "D. (David)" in the name "John D. (David) Rockefeller" is entered as "John" (first name); "D. (David)" (middle name); "Rockefeller" (last name)).

138.4.3 Multiple individual names on a single line. Two individual names contained in a single line are entered as two, different debtors (e.g., the debtor name "John and Mary Smith" is entered as two debtors: "John Smith", and "Mary Smith").

138.4.4 One word names. A one word name is entered as a last name (e.g., "Cher" is treated as a last name).

138.4.5 Nicknames. A nickname is entered in the name field together with the name preceding the nickname, or if none, then as the first name (e.g., "William (Bill) Jones").

R154-2-139. Verification of Data Entry.

The Division of Corporations and Commercial Code will enter the data as it is presented and encourages the filer to check the information on the database.

R154-2-140. Initial Financing Statement.

A new record is opened in the UCC information management system for each initial financing statement that bears the file number of the financing statement and the date and time of filing.

140.1 The name and address of each debtor that are legibly set forth in the financing statement are entered into the record of the financing statement. Each such debtor name is included in the searchable index and is not removed until one year after the financing statement lapses. Debtor addresses might not be included in the searchable index except to the extent the filing office offers or intends to offer limited searches or limited copy requests.

140.2 The name and address of each secured party that are legibly set forth in the financing statement are entered into the record of the financing statement.

140.3 The record is indexed according to the name of the debtor(s) and is maintained for public inspection.

140.4 A lapse date is established for the financing statement, unless the initial financing statement indicates it is filed against a transmitting utility, and the lapse date is maintained as part of the record.

R154-2-141. Amendment.

A record is created for the amendment that bears the file number for the initial filing statement to which it is associated and the date and time of filing.

141.1 The record of the amendment is associated with the record of the related initial financing statement in a manner that

causes the amendment to be retrievable each time a record of the financing statement is retrieved.

141.2 The name and address of each additional debtor and secured parties are entered into the UCC information management system in the record of the financing statement. Each such additional debtor name is added to the searchable index and are not removed until one year after the financing statement lapses.

141.3 If the amendment is a continuation, a new lapse date is established for the financing statement and maintained as part of its record.

R154-02-142. Correction Statement.

A record is created for the correction statement that bears the file number of the original filing and the date and time of filing of the correction statement. The record of the correction statement is associated with the record of the related initial financing statement in a manner that causes the correction statement to be retrievable each time a record of the financing statement is retrieved.

R154-2-143. Global Filings.

143.1 The filing officer may accept for filing a single UCC document for the purpose of amending more than one financing statement, for one or both of the following purposes: amendment to change secured party name exactly as entered; amendment to change secured party address exactly as entered. The global filings will be accepted on active filings only.

143.2 A blanket filing shall consist of a written document describing the requested amendment on a form approved by the filing office, and a machine readable file furnished by the remitter and created to the filing officer's specifications containing appropriate indexing information. A copy of blanket filing specifications is available from the filing officer upon request. Acceptance of a blanket filing is conditioned upon the determination of the filing officer in the filing officer's sole discretion.

R154-2-144. Archives - Data Retention.

Data in the UCC information management system relating to financing statements that have lapsed are retained for five years from the date of lapse. Such data will be maintained in the system for one year from the date of lapse and will thereafter be maintained in archives according to State of Utah Archives policy.

R154-2-145. Notice of Bankruptcy.

The filing officer takes no action upon receipt of a notification, formal or informal, of a bankruptcy proceeding involving a debtor named in the UCC information management system. Accordingly, financing statements will lapse in the information management system as scheduled unless properly continued.

R154-2-146. Search Requests and Reports.

The filing officer maintains for public inspection a searchable index for all records of UCC documents that provides for the retrieval of a record by the name of the debtor and by the file number of the initial financing statement to which the record relates.

R154-2-147. Search Requests.

Search requests shall contain the following information.

147.1 Name searched. A search request should set forth the full correct name of a debtor or the name variant desired to be searched and must specify whether the debtor is an individual or an organization. The full name of an individual shall consist of a first name, a middle name or initial, and a last name, although a search request may be submitted with no middle name or initial and, if only a single name is presented (e.g., ?Cher?) it will be treated as a last name. The full name of an organization or the name variant desired to be searched. A search request will be processed using the name in the exact form it is submitted.

147.2 Requesting party. The name and address of the person to whom the search report is to be sent.

147.3 Fee. The appropriate fee shall be enclosed, payable by a method described in rule R154-2-107.

R154-2-148. Optional Information.

A UCC search request may contain any of the following information:

148.1 A request that the search of a debtor name be limited to debtors in a particular city.

148.2 Instructions on the mode of delivery requested, if other than by ordinary mail or electronic means, will be honored if the requested mode is then made available by the filing office.

R154-2-149. Rules Applied to Search Requests.

Search results are created by applying standardized search logic to the name presented to the filing officer by the person requesting the search. Human judgment does not play a role in determining the results of the search. The following, and only the following rules are applied to conduct searches.

149.1 There is no limit to the number of matches that may be returned in response to the search criteria.

149.2 No distinction is made between upper and lower case letters.

149.3 Punctuation marks and accents are disregarded.

149.4 The word "the" at the beginning of the search criteria is used as part of the name searched.

149.5 Business names are searched exactly as they are printed on the search request.

149.6 After taking the preceding rules into account to modify the name of the debtor requested to be searched and to modify the names of debtors contained in active financing statements in the UCC information management system, the search will reveal only names of debtors that are contained in active financing statements and, as modified, exactly match the name requested, as modified.

149.7 The division may permit "wild card" searches on all names.

R154-2-150. Search Responses.

Reports created in response to a search request shall include the following.

150.1 Filing officer. Identification of the filing officer and the certification of the filing officer required by the UCC.

150.2 Report date. The date the report was generated.

150.3 Name searched. Identification of the name searched.

150.4 Certification date. The certification date applicable to the report; i.e., the date and time through the search is effective to reveal all relevant UCC documents filed on or prior to that date.

150.5 Identification of initial financing statements. Identification of each unexpired initial financing statement filed on or prior to the certification date and time corresponding to the search criteria, by name of debtor, by identification number, and by file date and file time.

150.6 History of financing statement. For each initial financing statement on the report, a listing of all related UCC documents filed by the filing officer on or prior to the certification date.

R154-2-151. Agricultural Liens.

Rules effecting agricultural liens are found at R154-1.

KEY: banking, equipment leasing, filing documents

2001

70A-9a et seq.

◆ ----- ◆
**Commerce, Occupational and
Professional Licensing
R156-31b
Nurse Practice Act Rules**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23631

FILED: 04/12/2001, 13:20

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division needs to remove the requirement for quality review in accordance with changes made to the Nurse Practice Act, Title 58, Chapter 31b, as a result of S.B. 197. The Division is also proposing changes that delete the APRN Peer Committee, provide additional acts which would be defined as unprofessional conduct, provide an administrative penalty for those acts, and clarify that an APRN or CRNA may practice as a RN.

(DAR Note: S.B. 197 is found at 2001 Utah Laws 268 and is effective as of April 30, 2001.)

SUMMARY OF THE RULE OR CHANGE: Section R156-31b-202 which created the Advanced Practice Advisory Peer Committee was deleted in its entirety as this committee has not met for at least three years and is no longer needed. Section R156-31b-304 which addresses quality review programs is deleted in its entirety and in Section R156-31b-303, deletions are made to eliminate any reference to quality review programs in the renewal requirements. Section R156-31b-502: additions were made that engaging in a sexual relationship with a patient surrogate and engaging in the practice of nursing in a disruptive manner are considered unprofessional conduct. Section R156-31b-402: the

administrative penalties for the new unprofessional conduct definitions identified above, were added. Section R156-31b-702: addition was made to clarify that an individual licensed as either an APRN or CRNA may practice as a RN without any additional licensure.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-31b-101, and Subsections 58-1-106(1) and 58-1-202(1)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Deletes the document "Implementing a Quality Assurance Program in Anesthesia Departments, an Action Plan of the Council on Nurse Anesthesia Practice"

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The Division will incur minimal costs, less than \$50, to reprint the rules once the proposed changes are made effective. Any costs incurred will be absorbed in the Division's current budget. The Division and Attorney General's Office may incur adjudicative expenses if action is brought against a nurse for unprofessional conduct.

❖LOCAL GOVERNMENTS: Proposed rule does not apply to local governments.

❖OTHER PERSONS: APRNs and CRNAs will not be mandated to participate in quality review programs in addition to any program in which they may already be participating, thus there will be a savings to these licensees which could be \$500 per year per nurse or \$415,000 based on 830 licensed APRNs and CRNAs at \$500 each. A nurse who is charged with unprofessional conduct may engage the services of an attorney and incur undeterminable legal costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: APRNs and CRNAs will not be mandated to participate in quality review programs in addition to any program in which they may already be participating, thus there will be a savings to these licensees which could be \$500 per year per nurse. A nurse who is charged with unprofessional conduct may engage the services of an attorney and incur undeterminable legal costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT

THE RULE MAY HAVE ON BUSINESSES: Under the filing change, APRNs and CRNAs will not be mandated to participate in quality review programs in addition to any program in which they may already be participating. Thus, there will be a cost savings to these licensees which could amount up to \$500 a year per nurse. At the same time, a nurse who is charged with unprofessional conduct, should she engage the services of an attorney, will incur legal fees and other legal costs associated with legal representation. Ted Boyer, Jr., Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building
160 East 300 South
PO Box 146741
Salt Lake City, UT 84114-6741, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Laura Poe at the above address, by phone at (801) 530-6789, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.lpoe@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 05/25/2001, 11:00 a.m., 160 East 300 South, Conference Room 4A (Fourth Floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-31b. Nurse Practice Act Rules.

~~**R156-31b-202. Advisory Peer Committees Created - Membership - Duties.**~~

~~There is created in accordance with Subsection 58-1-203(6) and Section 58-31b-202(2), the Advanced Practice Advisory Peer Committee whose duties and responsibilities include reviewing APRN applications and advising regarding practice issues.]~~

R156-31b-303. Renewal Cycle - Procedures.

- (1) In accordance with Subsection 58-1-308(1), the renewal date for the two year renewal cycle applicable to licensees under Title 58, Chapter 31b, is established by rule in Section R156-1-308.
- (2) Renewal procedures shall be in accordance with Section R156-1-308.
- (3) Each applicant for renewal shall comply with the following continuing competence requirements:
 - (a) An LPN or RN shall complete one of the following during the two years immediately preceding the application for renewal:
 - (i) licensed practice for not less than 400 hours;
 - (ii) licensed practice for not less than 200 hours and completion of 15 contact hours of approved continuing education; or
 - (iii) completion of 30 contact hours of approved continuing education hours.
 - (b) An APRN shall complete the following:
 - (i) be currently certified or recertified in their specialty area of practice; or
 - (ii) if licensed prior to July 1, 1992, complete 30 hours of approved continuing education and 400 hours of practice[; and
 - ~~(iii) actively participate in a quality review program defined in Section R156-31b-304].~~
 - (c) A CRNA shall [complete the following:
 - ~~(i) be currently certified or recertified as a CRNA[; and~~
 - ~~(ii) produce evidence of continuing participation in an anesthesia quality assurance program which meets the criteria set forth in the document "Implementing a Quality Assurance Program in Anesthesia Departments, an Action Plan of the Council on Nurse Anesthesia Practice", which is hereby adopted and incorporated by reference].~~

~~**R156-31b-304. Quality Review Program.**~~

- ~~In accordance with Subsection 58-31b-305(3)(b), quality review programs must meet the following criteria for division approval:~~
 - ~~(1) The quality review process shall be conducted by a reviewer who is a licensed health care provider who is knowledgeable in the practice of advanced practice registered nursing.~~
 - ~~(2) The review process shall be conducted on a regular, systematic basis.~~
 - ~~(3) Upon a finding of gross incompetence, gross negligence, or a pattern of incompetence or negligence, the reviewer shall submit its findings to the division for appropriate action.~~
 - ~~(4) If the licensee fails to substantially comply with corrective action determined appropriate by the reviewer after a negative review, said failure shall be reported to the division for appropriate action.~~
 - ~~(5) The APRN who has reviewed shall make available to the division the results of a quality review upon the proper issuance of a subpoena by the division.]~~

R156-31b-402. Administrative Penalties.

- In accordance with Subsections 58-31b-102(1) and 58-31b-402(1), unless otherwise ordered by the presiding officer, the following fine schedule shall apply.
- (1) Using a protected title:
 - initial offense: \$100 - \$300
 - subsequent offense(s): \$250 - \$500
 - (2) Using any title that would cause a reasonable person to believe the user is licensed under this chapter:
 - initial offense: \$50 - \$250
 - subsequent offense(s): \$200 - \$500
 - (3) Conducting a nursing education program in the state for the purpose of qualifying individuals for licensure without board approval:
 - initial offense: \$1,000 - \$3,000
 - subsequent offense(s): \$5,000 - \$10,000
 - (4) Practicing or attempting to practice nursing without a license or with a restricted license:
 - initial offense: \$500 - \$2,000
 - subsequent offense(s): \$2,000 - \$10,000
 - (5) Impersonating a licensee or practicing under a false name:
 - initial offense: \$500 - \$2,000
 - subsequent offense(s): \$2,000 - \$10,000
 - (6) Knowingly employing an unlicensed person:
 - initial offense: \$500 - \$1,000
 - subsequent offense(s): \$1,000 - \$5,000
 - (7) Knowingly permitting the use of a license by another person:
 - initial offense: \$500 - \$1,000
 - subsequent offense(s): \$1,000 - \$5,000
 - (8) Obtaining a passing score, applying for or obtaining a license, or otherwise dealing with the division or board through the use of fraud, forgery, intentional deception, misrepresentation, misstatement, or omission:
 - initial offense: \$500 - \$2,000
 - subsequent offense(s): \$2,000 - \$10,000

(9) violating or aiding or abetting any other person to violate any statute, rule, or order regulating nursing:

initial offense: \$500 - \$2,000

subsequent offense(s): \$2,000 - \$10,000

(10) violating, or aiding or abetting any other person to violate any generally accepted professional or ethical standard:

initial offense: \$500 - \$2,000

subsequent offense(s): \$2,000 - \$10,000

(11) Engaging in conduct that results in convictions of felony, or a plea of nolo contendere, or a plea of guilty or nolo contendere held in abeyance to a crime of moral turpitude or other crime:

initial offense: \$500 - \$2,000

subsequent offense(s): \$2,000 - \$10,000

(12) Engaging in conduct that results in disciplinary action by any other jurisdiction or regulatory authority:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(13) Engaging in conduct, including the use of intoxicants, drugs to the extent that the conduct does or may impair the ability to safely engage in practice as a nurse:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(14) Practicing or attempting to practice as a nurse when physically or mentally unfit to do so:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(15) Practicing or attempting to practice as a nurse through gross incompetence, gross negligence, or a pattern of incompetency or negligence:

initial offense: \$500 - \$2,000

subsequent offense(s): \$2,000 - \$10,000

(16) Practicing or attempting to practice as a nurse by any form of action or communication which is false, misleading, deceptive, or fraudulent:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(17) Practicing or attempting to practice as a nurse beyond the individual's scope of competency, abilities, or education:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(18) Practicing or attempting to practice as a nurse beyond the scope of licensure:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(19) Verbally, physically, mentally, or sexually abusing or exploiting any person through conduct connected with the licensee's practice:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(20) Failure to safeguard a patient's right to privacy:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(21) Failure to provide nursing service in a manner that demonstrates respect for the patient's human dignity:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(22) Engaging in sexual relations with a patient:

initial offense: \$5,000 - \$10,000

subsequent offense(s): \$10,000

(23) Unlawfully obtaining, possessing, or using any prescription drug or illicit drug:

initial offense: \$200 - \$1,000

subsequent offense(s): \$500 - \$2,000

(24) Unauthorized taking or personal use of nursing supplies from an employer:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(25) Unauthorized taking or personal use of a patient's personal property:

initial offense: \$200 - \$1,000

subsequent offense(s): \$500 - \$2,000

(26) Knowingly entering false or misleading information into a medical record or altering a medical record:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(27) Unlawful or inappropriate delegation of nursing care:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(28) Failure to exercise appropriate supervision:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(29) Employing or aiding and abetting the employment of unqualified or unlicensed person to practice:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(30) Failure to file or impeding the filing of required reports:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(31) Breach of confidentiality:

initial offense: \$200 - \$1,000

subsequent offense(s): \$500 - \$2,000

(32) Failure to pay a penalty:

Double the original penalty amount up to \$10,000

(33) Prescribing a schedule II-III controlled substance without a consulting physician or outside of a consultation and referral plan:

initial offense: \$500 - \$1,000

subsequent offense(s): \$500 - \$2,000

(34) Failure to confine practice within the limits of competency:

initial offense: \$500 - \$1,000

subsequent offense(s): \$500 - \$2,000

(35) Any other conduct which constitutes unprofessional or unlawful conduct:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(36) Engaging in a sexual relationship with a patient surrogate:

initial offense: \$1,000 - \$5,000

subsequent offense(s): \$5,000 - \$10,000

(37) Engaging in practice in a disruptive manner:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000.

R156-31b-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) failing to destroy a license which has expired due to the issuance and receipt of an increased scope of practice license;

(2) an RN issuing a prescription for a prescription drug to a patient except in accordance with the provisions of Section 58-17a-620, or as may be otherwise provided by law;

(3) failing as the nurse accountable for directing nursing practice of an agency to verify any of the following:

(a) that standards of nursing practice are established and carried out so that safe and effective nursing care is provided to patients;

(b) that guidelines exist for the organizational management and management of human resources needed for safe and effective nursing care to be provided to patients;

(c) nurses' knowledge, skills and ability and determine current competence to carry out the requirements of their jobs;

(4) engaging in sexual contact with a patient surrogate concurrent with the nurse/patient relationship; and

(5) engaging in the practice of nursing in a disruptive manner including aberrant behavior manifested through personal interaction with health care professions, hospital personnel, patients, family members, or others, which interferes with patient care or could reasonably be expected to interfere with the process of delivering quality care.

R156-31b-702. Scope of Practice.

(1) The lawful scope of practice for an RN employed by a department of health shall include implementation of standing orders and protocols, and completion and providing to a patient of prescriptions which have been prepared and signed by a physician in accordance with the provisions of Section 58-17a-620.

(2) An APRN who chooses to change or expand from a primary focus of practice must be able to document competency within that expanded practice based on education, experience and certification. The burden to demonstrate competency rests upon the licensee.

(3) An individual licensed as either an APRN or a CRNA may practice within the scope of practice of a RN under his APRN or CRNA license.

KEY: licensing, nurses
[November 9, 2000]2001

58-31b-101
58-1-106(1)
58-1-202(1)



Commerce, Occupational and Professional Licensing
R156-60b
Marriage and Family Therapist Licensing Act Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23620
FILED: 04/10/2001, 10:27
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As a result of changes made by the 2001 Legislature to the Mental Health Professional Practice Act, Title 58, Chapter 60 (see S.B. 104 and H.B. 73), changes need to be made in this rule. **(DAR Note:** S.B. 104 is found at 2001 Utah Laws 40 and is effective as of April 30, 2001. H.B. 73 is found at 2001 Utah Laws 281 and is effective as of April 30, 2001.)

SUMMARY OF THE RULE OR CHANGE: Throughout the rule, references to the statute have been updated as a result of the statute changes creating new paragraph numbering. In Section R156-60b-302a: references have been added to indicate licensure is as a marriage and family therapist. In Section R156-60b-302d: changes that a marriage and family therapist training supervisor is to have been lawfully engaged in the practice of mental health therapy for not less than two years, rather than five years. In Section R156-60b-304: with respect to continuing education requirements, added that the continuing education requirements also apply to a certified marriage and family therapist intern. The above-identified statute changes created a new type of license classification for a certified marriage and family therapist intern in Title 58, Chapter 60.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-60-301, and Subsections 58-1-106(1) and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** The Division will incur minimal costs, approximately \$30, to reprint these rules once the proposed changes are made effective. Any costs incurred will be absorbed in the Division's current budget. The Division anticipates no additional costs to the state budget as these proposed changes simply reflect the changes made in the statute. Any cost of changes made in the statute were reflected in the fiscal note that was attached to the statute changes.

❖**LOCAL GOVERNMENTS:** Proposed rule does not apply to local governments.

❖**OTHER PERSONS:** The Division is unable to determine how many applicants will apply for licensure as a certified marriage and family therapist intern. This new classification of licensees will be required to obtain 40 hours of continuing education in each two year period. The Division anticipates the cost to obtain the 40 hours of continuing education to range from \$200 to \$1,000 per licensee every two years.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division anticipates the cost to obtain the 40 hours of continuing professional education for a certified marriage and family therapist intern to range from \$200 to \$1,000 per licensee every two years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of this filing relates to: updating references to statute that has undergone revised numbering for reference purposes, and insuring that continuing education requirements for a new licensure category created for a certified marriage and family therapist intern will be consistent with continuing education

requirements as is found in other licensing categories. As to the state budget, the proposed changes in the rules would appear to have very minimal or no cost impact at all. There will also be no cost impact on local government. As to particular individuals affected by the changes in the rules, the exact fiscal impact is unknown. Under the new license classification created, those obtaining the license will be required to obtain 40 hours of continuing education every two years and the cost of obtaining such continuing education may range from \$200 to \$1,000 per licensee. Ted Boyer, Jr., Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building
160 East 300 South
PO Box 146741
Salt Lake City, UT 84114-6741, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dan S. Jones at the above address, by phone at (801) 530-6720, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.dsJones@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 05/25/2001, 9:00 a.m., 160 East 300 South, Conference Room 457 (Fourth Floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-60b. Marriage and Family Therapist Licensing Act Rules.
R156-60b-302a. Qualifications for Licensure - Education Requirements.**

(1) Pursuant to Subsection 58-60-305~~(c)~~(1)(d), an applicant applying for licensure as a marriage and family therapist after July 1, 2002 shall:

(a) produce certified transcripts evidencing completion of a master's or doctorate degree in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy at the time the applicant obtained the education; or

(b) produce certified transcripts evidencing completion of a master's degree in marriage and family therapy from a program accredited by a professional accrediting body approved by the Council for Higher Education Accreditation of the American Council on Education at the time the applicant obtained the education which includes courses in the following areas:

(i) six semester hours/nine quarter hours of course work in theoretical foundations of marital and family therapy;

(ii) nine semester hours/12 quarter hours of course work in assessment and treatment in marriage and family therapy;

(iii) six semester hours/nine quarter hours of course work in human development and family studies which include ethnic minority issues, and gender issues including sexuality, sexual functioning, and sexual identity;

(iv) three semester hours/three quarter hours in professional ethics;

(v) three semester hours/three quarter hours in research methodology and data analysis;

(vi) three semester hours/three quarter hours in electives in marriage and family therapy; and

(vii) a clinical practicum of not less than 600 hours which includes not less than 100 hours of face to face supervision and not less than 500 hours of supervised clinical practice of which not less than 250 hours shall be with couples or families who are physically present in the therapy room.

(2) Pursuant to Subsection 58-60-305.5(2), an applicant applying for licensure as a marriage and family therapist before July 1, 2002 shall meet the following requirements:

(a) produce certified transcripts evidencing completion of a master's or doctorate degree in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy; or

(b) produce certified transcripts evidencing an earned doctorate or master's degree in a field of education emphasizing human behavioral studies and skill in therapy or counseling which shall:

(i) be from an institution which is accredited by a professional accrediting body approved by the Council for Higher Education Accreditation of the American Council on Education at the time the applicant obtained the education; and

(ii) include successful completion of the following graduate level course work and a clinical practicum:

(A) six semester hours/nine quarter hours of course work in theoretical foundations of marital and family therapy;

(B) nine semester hours/12 quarter hours of course work in assessment and treatment in marriage and family therapy;

(C) six semester hours/nine quarter hours of course work in human development and family studies which include ethnic minority issues, and gender issues including sexuality, sexual functioning, and sexual identity;

(D) three semester hours/three quarter hours in professional ethics;

(E) three semester hours/three quarter hours in research methodology and data analysis;

(F) three semester hours/three quarter hours in electives in marriage and family therapy; and

(G) a clinical practicum of not less than 600 hours which includes not less than 100 hours of face to face supervision and not less than 500 hours of supervised clinical practice of which not less than 250 hours shall be with couples or families who are physically present in the therapy room; or

(c) produce certified transcripts evidencing an earned doctorate or master's degree in a field of religious study with a documented emphasis in marriage and family therapy and which meets the requirements set forth under Subsections (2)(b)(ii)(A) through (G).

R156-60b-302b. Qualifications for Licensure - Experience Requirements.

(1) Pursuant to Subsections 58-60-305~~(5) and (6)~~(1)(e) and (f), an applicant shall complete marriage and family therapy and mental health therapy training consisting of a minimum of 4,000 hours of supervised training which shall:

- (a) be completed in not less than two years;
- (b) be completed while the applicant is an employee of a public or private agency engaged in mental health therapy;
- (c) be completed under the supervision of a marriage and family therapist supervisor meeting the requirements under Section 58-60-307;
- (d) include at least 200 hours of face to face supervision of which at least 100 hours must be individual supervision;
- (e) in accordance with Subsection 58-60-305~~(6)~~(1)(f), include a minimum of 1000 hours of mental health therapy of which at least 500 hours in conjoint, couple or family therapy sessions; and

(f) hours completed in a group therapy session may count only if the supervisee functions as the primary therapist.

(2) An applicant for licensure as a marriage and family therapist, who is not seeking licensure by endorsement based upon licensure in another jurisdiction, who has completed all or part of the marriage and family therapy training requirements outside the state, may receive credit for that training completed outside of the state if it is demonstrated by the applicant that the training completed outside the state is equivalent to and in all respects meets the requirements for training under Subsections 58-60-305~~(5) and (6)~~(1)(e) and (f), and Subsection R156-60b-302b(1). The applicant shall have the burden of demonstrating by evidence satisfactory to the division and board that the training completed outside the state is equivalent to and in all respects meets the requirements under this subsection.

R156-60b-302c. Qualifications for Licensure - Examination Requirements.

Pursuant to the provisions of Subsection 58-60-305~~(7)~~(1)(g), an applicant for licensure as a marriage and family therapist must pass the Examination of Marital and Family Therapy written for the Association of Marital and Family Therapy Regulatory Boards.

R156-60b-302d. Qualifications to be a Marriage and Family Therapist Training Supervisor and Mental Health Therapist Training Supervisor.

Pursuant to the provisions of Subsection 58-60-307(1), to be qualified as a marriage and family therapist supervisor for training required under Subsections 58-60-305~~(5) and (6)~~(1)(e) and (f), an individual shall:

- (1) be currently approved by AAMFT as a marriage and family therapist supervisor; or
- (2) be currently licensed or certified in good standing as a marriage and family therapist in the state in which the supervised training is being performed; and meet the following requirements:
 - (a) have lawfully engaged in the practice of mental health therapy for not less than ~~five~~two years;
 - (b) have successfully completed 30 clock hours of instruction approved by the division in collaboration with the board in the theory, practice, and process of supervision; and

(c) have successfully completed 36 clock hours of training related to the practice of supervision under the direction of a qualified marriage and family therapist training supervisor.

R156-60b-304. Continuing Education.

(1) There is hereby established a continuing professional education requirement for all individuals licensed under Title 58, Chapter 60, Part 3, as a marriage and family therapist and as a certified marriage and family therapist intern.

(2) During each two year period commencing September 30th of each even numbered year, a marriage and family therapist and as a certified marriage and family therapist intern shall be required to complete not less than 40 hours of qualified professional education directly related to the licensee's professional practice with at least 15 hours thereof being directly related to marriage and family therapy.

(3) The required number of hours of professional education for an individual who first becomes licensed during the two year period shall be decreased in a pro-rata amount equal to any part of that two year period preceding the date on which that individual first became licensed.

(4) Qualified professional education under this section shall:

- (a) have an identifiable clear statement of purpose and defined objective for the educational program directly related to the practice of a mental health therapist;
- (b) be relevant to the licensee's professional practice;
- (c) be presented in a competent, well organized, and sequential manner consistent with the stated purpose and objective of the program;
- (d) be prepared and presented by individuals who are qualified by education, training, and experience; and
- (e) have associated with it a competent method of registration of individuals who actually completed the professional education program and records of that registration and completion are available for review.

(5) Credit for professional education shall be recognized in accordance with the following:

- (a) unlimited hours shall be recognized for professional education completed in blocks of time of not less than one hour in formally established classroom courses, seminars, or conferences;
- (b) a maximum of 14 hours per two year period may be recognized for teaching in a college or university, teaching qualified continuing professional education courses in the field of mental health therapy, or supervision of an individual completing his experience requirement for licensure in a mental health therapist license classification;

(c) a maximum of six hours per two year period may be recognized for clinical readings directly related to practice as a mental health therapist;

(6) A licensee shall be responsible for maintaining competent records of completed qualified professional education for a period of four years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain such information with respect to qualified professional education to demonstrate it meets the requirements under this section.

(7) A licensee who documents he is engaged in full time activities or is subjected to circumstances which prevent that licensee from meeting the continuing professional education requirements established under this section may be excused from

the requirement for a period of up to three years; however, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.

KEY: licensing, therapists, marriage and family therapist*
[November 7, 2000]2001 58-1-106(1)
Notice of Continuation November 15, 1999 58-1-202(1)
58-60-301

◆ ————— ◆

Commerce, Occupational and Professional Licensing **R156-61** Psychologist Licensing Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23632

FILED: 04/12/2001, 14:26

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As a result of changes made by the 2001 Legislature to the Psychologist Licensing Act, Title 58, Chapter 61 (see H.B. 73), changes need to be made in this rule to implement the certification classification of psychology resident.

(DAR Note: H.B. 73 is found at Utah Laws 281 and is effective as of April 30, 2001.)

SUMMARY OF THE RULE OR CHANGE: Section R156-61-102: added a definition for "residency program." In Section R156-61-302b, Experience Requirements: added that post-doctoral supervised experience must be completed as a certified psychology resident. In Section R156-61-302e: added that the supervisor of psychology training and mental health therapist training is responsible to ensure that the supervisee is certified by the Division as a psychology resident. In Section R156-61-302h: added that a certified psychology resident shall complete 24 hours of continuing professional education every two years. In Section R156-61-502: added as further definitions of unprofessional conduct, participating in a residency program without being certified as a psychology resident and supervising a residency program of an individual who is not certified as a psychology resident.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-61-101, and Subsections 58-1-106(1) and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Division will incur minimal costs, approximately \$50, to reprint these rules once the proposed changes are made effective. Any costs incurred will be absorbed in the Division's current budget. The Division and Attorney General's Office may incur adjudicative expenses if

action is brought against a psychologist or psychology resident for unprofessional conduct.

◆ **LOCAL GOVERNMENTS:** Local mental health departments will need to certify individuals who are participating in a residency program. The cost is \$75 per person and may be paid by the individual or the agency.

◆ **OTHER PERSONS:** Individuals who have been exempt from licensure will need to be certified as a psychology resident at a cost of \$75 each. The Division is unable to determine how many applicants will apply for licensure as a certified psychology resident. Certified psychology residents will be required to obtain 24 hours of continuing education in each two year period. The Division anticipates the cost to obtain the 24 hours of continuing education to range from \$100 to \$500 per licensee every two years. Also, a psychologist or certified psychology resident who is charged with unprofessional conduct may engage the services of an attorney and incur undeterminable legal costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Individuals who have been exempt from licensure will need to be certified as a psychology resident at a cost of \$75 each. The Division is unable to determine how many applicants will apply for licensure as a certified psychology resident. Certified psychology residents will be required to obtain 24 hours of continuing education in each two year period. The Division anticipates the cost to obtain the 24 hours of continuing education to range from \$100 to \$500 per licensee every two years. Also, a psychologist or certified psychology resident who is charged with unprofessional conduct may engage the services of an attorney and incur undeterminable legal costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Individuals who have been exempt from licensure will be required to be certified as psychology residents at a cost of \$75 each. We do not know how many fall into this category and what the aggregate expense will therefore total. In addition, individuals who are charged with unprofessional conduct and desire to employ an attorney to represent them will be required to pay legal fees and legal costs. There is also an unspecified amount necessary for meeting continuing education requirements. Ted Boyer, Jr., Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building
160 East 300 South
PO Box 146741
Salt Lake City, UT 84114-6741, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Laura Poe at the above address, by phone at (801) 530-6789, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.poe@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.

R156-61. Psychologist Licensing Act Rules.

R156-61-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 61, as used in Title 58, Chapters 1 and 61 or these rules:

(1) "Approved diagnostic and statistical manual for mental disorders" means the "Diagnostic and Statistical Manual of Mental Disorders", 4th edition, published by the American Psychiatric Association, or the ICD-10-CM published by Medicode or the American Psychiatric Association.

(2) "Qualified faculty", as used in Subsection 58-1-307(b), means that university faculty member providing pre-doctoral supervision of clinical or counseling experience, that is experience in a university setting which is acquired prior to the pre-doctoral internship, who is licensed in Utah as a psychologist and who is training students in the context of a doctoral program leading to license eligibility. Qualified faculty does not include adjunct faculty. The qualified faculty supervisor must be legally able to personally provide the services which he is supervising. The qualified faculty supervisor must meet all other requirements for supervision as described in Section R156-61-302e. This provision does not allow such qualified faculty supervisors to provide supervision of hours needed for license eligibility, such as internship and post doctoral experience, unless the supervisor is otherwise qualified according to Section R156-61-302d. Supervisors in settings other than a university setting as described in this subsection must meet all requirements for supervisors as described in Sections R156-61-302d and R156-61-302e.

(3) "Residency program", as used in Subsection 58-61-301(1)(b), means a program of post-doctoral supervised clinical training necessary to meet licensing requirements as a psychologist.

R156-61-302b. Qualifications for Licensure - Experience Requirements.

(1) Psychology training of a minimum of 4,000 hours qualifying an applicant for licensure as a psychologist under Subsection 58-61-304(1)(e), and mental health therapy training under Subsection 58-61-304(1)(f), to be approved by the division in collaboration with the board, shall:

(a) be completed in not less than two years and in not more than four years unless otherwise approved by the board and division; and

(b) be completed while the applicant is under the supervision of a qualified psychologist meeting the requirements under Section R156-61-302d.

(2) In accordance with Subsection 58-61-301(1)(b), an individual engaged in a post-doctoral residency program of supervised clinical training shall be certified as a psychology resident.

(2)3 An applicant for licensure as a psychologist who has commenced and completed all or part of the psychology or mental health therapy training requirements under Subsection (1) outside the state, may receive credit for that training completed outside of the state if it is demonstrated by the applicant that the training

completed outside the state is equivalent to the requirements for training under Subsections 58-61-304(1)(e) and (f), and Subsection R156-61-302b(1). The applicant shall have the burden of demonstrating by evidence satisfactory to the division and board that the training completed outside the state is equivalent to the requirements under this Subsection.

R156-61-302e. Duties and Responsibilities of a Supervisor of Psychology Training and Mental Health Therapist Training.

The duties and responsibilities of a psychologist supervisor are further defined, clarified or established as follows:

(1) be professionally responsible for the acts and practices of the supervisee which are a part of the required supervised training;

(2) be engaged in a relationship with the supervisee in which the supervisor is independent from control by the supervisee and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised;

(3) supervise not more than 120 hours of supervised experience per week;

(4) be available for advice, consultation, and direction consistent with the standards and ethics of the profession and the requirements suggested by the total circumstances including the supervisee's level of training, diagnosis of patients, and other factors known to the supervisee and supervisor;

(5) comply with the confidentiality requirements of Section 58-61-602;

(6) provide timely and periodic review of the client records assigned to the supervisee;

(7) monitor the performance of the supervisee for compliance with laws, standards, and ethics applicable to the practice of psychology;[~~and~~]

(8) submit appropriate documentation to the division with respect to work completed by the supervisee evidencing the performance of the supervisee during the period of supervised psychology training and mental health therapist training, including the supervisor's evaluation of the supervisee's competence in the practice of psychology and mental health therapy;

(9) ensure that the supervisee is certified by the Division as a psychology resident.

R156-61-302h. Continuing Education.

(1) There is hereby established a continuing professional education requirement for all individuals licensed or certified under Title 58, Chapter 61.

(2) During each two year period commencing on October 1 of each even numbered year[;]:

(a) a [~~licensee~~]licensed psychologist shall be required to complete not less than 48 hours of qualified professional education directly related to the licensee's professional practice; or

(b) a certified psychology resident shall be required to complete not less than 24 hours of qualified professional education directly related to professional practice.

(3) The required number of hours of professional education for an individual who first becomes licensed during the two year period year shall be decreased in a pro-rata amount equal to any part of that two year period year preceding the date on which that individual first became licensed.

(4) Qualified professional education under this section shall:

- (a) have an identifiable clear statement of purpose and defined objective for the educational program directly related to the practice of a psychologist;
- (b) be relevant to the licensee's professional practice;
- (c) be presented in a competent, well organized, and sequential manner consistent with the stated purpose and objective of the program;
- (d) be prepared and presented by individuals who are qualified by education, training, and experience; and
- (e) have associated with it a competent method of registration of individuals who actually completed the professional education program and records of that registration and completion are available for review.

(5) Credit for professional education shall be recognized in accordance with the following:

- (a) unlimited hours shall be recognized for professional education completed in blocks of time of not less than one hour in formally established classroom courses, seminars, or conferences;
- (b) a maximum of ten hours per two year period may be recognized for teaching in a college or university, teaching qualified continuing education professional education courses in the field of psychology, or supervision of an individual completing his experience requirement for licensure as a psychologist;
- (c) a maximum of six hours per two year period may be recognized for clinical readings directly related to practice as a psychologist;

(6) A licensee shall be responsible for maintaining competent records of completed qualified professional education for a period of four years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain information with respect to qualified professional education to demonstrate it meets the requirements under this section.

(7) A licensee who documents they are engaged in full time activities or is subjected to circumstances which prevent that licensee from meeting the continuing professional education requirements established under this section may be excused from the requirement for a period of up to three years. However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.

R156-61-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

- (1) violation of any provision of the "Ethical Principles of Psychologists and Code of Conduct" of the American Psychological Association (APA) as adopted by the APA, December 1992 edition, which is adopted and incorporated by reference;
- (2) violation of any provision of the "ASPPB Code of Conduct" of the Association of State and Provincial Psychology Boards (ASPPB) as adopted by the ASPPB, 1991 edition, which is adopted and incorporated by reference;
- (3) acting as a supervisor or accepting supervision of a supervisor without complying with or ensuring the compliance with the requirements of Sections R156-61-302d and R156-61-302e;
- (4) engaging in and aiding or abetting conduct or practices which are dishonest, deceptive or fraudulent;
- (5) engaging in or aiding or abetting deceptive or fraudulent billing practices;
- (6) failing to establish and maintain appropriate professional boundaries with a client or former client;

(7) engaging in dual or multiple relationships with a client or former client in which there is a risk of exploitation or potential harm to the client;

(8) engaging in sexual activities or sexual contact with a client with or without client consent;

(9) engaging in sexual activities or sexual contact with a former client within two years of documented termination of services;

(10) engaging in sexual activities or sexual contact at any time with a former client who is especially vulnerable or susceptible to being disadvantaged because of the client's personal history, current mental status, or any condition which could reasonably be expected to place the client at a disadvantage recognizing the power imbalance which exists or may exist between the psychologist and the client;

(11) engaging in sexual activities or sexual contact with client's relatives or other individuals with whom the client maintains a relationship when that individual is especially vulnerable or susceptible to being disadvantaged because of his personal history, current mental status, or any condition which could reasonably be expected to place that individual at a disadvantage recognizing the power imbalance which exists or may exist between the psychologist and that individual;

(12) physical contact with a client when there is a risk of exploitation or potential harm to the client resulting from the contact;

(13) engaging in or aiding or abetting sexual harassment or any conduct which is exploitive or abusive with respect to a student, trainee, employee, or colleague with whom the licensee has supervisory or management responsibility;

(14) failing to render impartial, objective, and informed services, recommendations or opinions with respect to custodial or parental rights, divorce, domestic relationships, adoptions, sanity, competency, mental health or any other determination concerning an individual's civil or legal rights;

(15) exploiting a client for personal gain;

(16) use of a professional client relationship to exploit a person that is known to have a personal relationship with a client for personal gain;

(17) failing to maintain appropriate client records for a period of not less than ten years from the documented termination of services to the client;

(18) failing to obtain informed consent from the client or legal guardian before taping, recording or permitting third party observations of client care or records;[~~and~~]

(19) failure to cooperate with the Division during an investigation

(20) participating in a residency program without being certified as a psychology resident; and

(21) supervising a residency program of an individual who is not certified as a psychology resident.

KEY: licensing, psychologists

[February 15, 2000]2001

Notice of Continuation July 22, 1999

58-1-106(1)

58-1-202(1)

58-61-101



Education, Administration
R277-709
 Education Programs Serving Youth in
 Custody

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23670

FILED: 04/16/2001, 16:03

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the amendment is to update, clarify and simplify definitions, to update federal statutes, and to update terminology.

SUMMARY OF THE RULE OR CHANGE: The rule changes the Youth in Custody definition to a simpler one, adds a description of the Coordinating Council and makes other terminology changes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no anticipated cost or savings to the state budget because the amendments are in definition and terminology only.

❖LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government because the amendments are in definition and terminology only. Also, the state pays to educate Youth in Custody students.

❖OTHER PERSONS: There are no anticipated cost or savings to other persons because the amendments are in definition and terminology only.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for anybody in the amendments to this rule because they are terminology changes, definition changes and clarifications.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses. Steven O. Laing

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Education
 Administration
 250 East 500 South
 Salt Lake City, UT 84111, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol B. Lear at the above address, by phone at (801) 538-7835, by FAX at (801) 538-7768, or by Internet E-mail at clear@usoe.k12.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: Carol B. Lear, Coordinator School and Legislation

R277. Education, Administration.

R277-709. Education Programs Serving Youth in Custody.

R277-709-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "Youth in Custody" means a person ~~[under the age of 21 and not a high school graduate who is in the custody of a state agency other than the Utah State Training School, the Utah State Hospital, the State Division of Corrections, or the Utah State Prison, pursuant to a determination that the person is neglected, delinquent, or guilty of a criminal act. The term includes residents of detention centers, but excludes any child who is in custody solely because the parent wanted to provide the child with education at home or in a private school. The term excludes any youth in the state supervision category as designated under Section 63-25a-304.]~~ defined under Section 53A-1-403(1) who does not have a high school diploma or a GED certificate.

C. "Custody" means the status of being legally subject to the control of another person or a public agency. [

~~—D. "Determination of neglect, delinquency, or criminal activity" means a finding made by a legally authorized court or agency in accordance with state law.]~~

R277-709-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-403(1) which makes the Board directly responsible for the education of youth in custody, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify operation standards and procedures for youth in custody programs.

R277-709-3. Student Evaluation, ~~[and]~~ Education Plans, and School District Programs.

A. Each student meeting the definition of youth in custody shall be evaluated at least every three years to determine the level and scope of the student's educational performance and the student's learning abilities. The evaluation shall include vision and auditory tests and shall specify known in-school and extra-school factors which may affect the student's school performance. The program receiving the student is responsible for obtaining the student's evaluation records, and, in cases where the records are not current, for conducting the evaluation as quickly as possible so that unnecessary delay in developing a student's education program is avoided.

B. Based upon the results of the student evaluation, an appropriate ~~[individual]~~ student education plan shall be prepared for each youth in custody. The plan shall be reviewed and updated at least once each year or immediately following transfer of a student

from one program to another, whichever is sooner. The plan ~~is~~ developed in cooperation with appropriate representatives of other service agencies working with ~~the respective~~ a student~~s~~. The plan shall specify the responsibilities of each of the agencies towards the student and is signed by each agency's representative.

C. School district Youth in Custody Programs

(1) ~~t~~The school district shall provide an education program for the student which conforms as closely as possible to the student's ~~individual~~ education plan. Educational services shall be provided in the least restrictive environment appropriate for the student's behavior and educational performance. Youth in custody who do not require special services or supervision beyond ~~th~~~~ose~~at which would be available to them were they not in custody shall be considered part of the district's regular enrollment and treated accordingly~~;~~.

(2) ~~y~~Youth in custody shall not be assigned to, or remain in, restrictive or non-mainstream programs simply because of their custodial status, their past behavior, or the inappropriate behavior of other students~~;~~.

(3) ~~e~~Education programs to which youth in custody are assigned shall meet the standards which are adopted by the Board for that type program. Compliance shall be monitored by the Utah State Office of Education in periodic review visits~~;~~.

(4) ~~e~~Credit earned in youth in custody programs that are accredited shall be accepted at face value in Utah's public schools.~~;~~

~~(5) custodial status alone does not qualify a student as being handicapped under laws regulating education for handicapped persons;~~

~~(6)~~~~5~~ ~~e~~Educational services shall be sufficiently coordinated with non-custody programs to enable youth in custody to continue their education with minimal disruption following discharge from custody.

D. Youth in custody shall be admitted to classes within five school days following arrival at a new residential placement. If evaluation and ~~individual~~ student education plan development are delayed beyond that period, the student shall be enrolled temporarily based upon the best information available. The temporary schedule may be modified to meet the student's needs after the evaluation and planning process has been completed.

E. When a student is released from custody or transferred to a new program, the sending program shall bring all available school records up to date and forward them to the receiving program within one week following notification of release or transfer.

R277-709-4. Operation Procedures.

A(1) the Board shall contract with school districts to provide educational services for youth in custody. The respective responsibilities of the Board, the school district, and other local service providers for education shall be established in the contract. A school district may subcontract with local non-district educational service providers for the provision of educational services;

(2) the Board may contract with entities other than school districts only if the Board determines that the school district is unable to provided adequate education services.

B. Youth in custody receiving education services by or through a school district are students of that district.

C. State funds appropriated for youth in custody are allocated on the basis of annual applications made by school districts. The share of funds distributed to a district is based upon criteria which include~~s~~ the number of youth in custody served in the district, the type of program required for the youth, the setting for providing services, and the length of the program. Funds approved for youth in custody projects may be expended solely for the purposes described in the respective funding application. Unexpended funds may not be carried over from one fiscal year to the next, except ~~by~~following specific approval of the Board or a designee.

D. Federal funds are available under ~~Chapter I of the Education Consolidation and Improvement Act of 1981, P.L. 97-35, Title V, Subtitle D, for the education of youth in custody are allocated in accordance with the procedures of Subsection 4(C). The Board hereby incorporates by reference Public Law 97-35, Title V, Subtitle D, Sections 551 through 559, and regulations promulgated under that Act which are effective as of July, 1993~~the Elementary and Secondary Education Act, 34 C.F.R., Chapter II, Part 200, Title I, Subpart D, for the education of youth who are neglected, delinquent, or at risk of dropping out.

E. The youth in custody program is separate from and not conducted under the state's education program for ~~the handicapped~~ students with disabilities. Custodial status alone does not qualify a student as a student with a disability under laws regulating education for students with disabilities.

F. The Board, or its designee, shall adopt uniform pupil and fiscal accounting procedures, forms, and deadlines for the youth in custody program.

G. Education staff assigned to youth in custody shall be qualified and appropriate for their assignments. The teaching ~~certificate~~license and endorsement held by a teacher shall be important in evaluating the appropriateness of a teacher's assignment but not controlling. Elementary teachers may teach secondary-age students who are functioning at an elementary level in the subjects in question. Teachers shall not be required to hold special education ~~certificates~~licenses, although such ~~certificates~~licenses are encouraged.

R277-709-5. Confidentiality.

A. Transcripts and diplomas prepared for youth in custody shall be issued in the name of an existing district or school which also serves non-custodial youth and shall not bear references to custodial status.

B. School records which refer to custodial status, juvenile court records, and related matters shall be kept separate from permanent school records, but are nonetheless student records if retained by the school/district~~and shall be destroyed or sealed upon order of a court of competent jurisdiction~~.

C. Members of the interagency team which design~~s~~ and oversee~~s~~ individual student education plans shall have access, through team member representatives of the participating agencies, to relevant records of the various agencies. The records and information obtained from the records remain~~s~~ the property of the supplying agency and shall not be transferred or shared with other persons or agencies without the permission of the supplying agency.

D. All information maintained in permanent form on a student from whatever source derived or received, is a student record under the Family Educational Rights and Privacy Act, 34 C.F.R., Part 99.

R277-709-6. Coordinating Council.

A. The Department of Human Services and the Board shall appoint a coordinating council to plan, coordinate, and recommend budget, policy, and program guidelines for the education and treatment of persons in the custody of the Division of Youth Corrections and the Division of Child and Family Services. The Council shall operate under the guidelines developed and approved by the Department of Human Services and the Board.

B. Council membership shall include a representative of the following:

- (1) Office of Licensing under Department of Human Services;
- (2) State Division of Youth Corrections;
- (3) multipurpose facilities under Division of Youth Corrections;
- (4) urban detention facilities under Division of Youth Corrections;
- (5) observation/diagnostic facilities under Division of Youth Corrections;
- (6) long term secure facilities under Division of Youth Corrections;
- (7) case management under Division of Youth Corrections;
- (8) State Division of Child and Family Services;
- (9) Regional Division of Child and Family Services;
- (10) Utah State Office of Education.
- (11) Utah school districts Youth in Custody directors;
- (12) district juvenile courts;
- (13) community-based private providers;
- (14) foster parents;
- (15) a Native American tribe.

R277-709-[6]7. Advisory Councils.

A. Each school district serving youth in custody shall establish a local interagency advisory council which shall be responsible for advising member agencies concerning coordination of youth in custody programs. Members of the council shall include, if applicable to the district, ~~a representative of~~ the following:

- (1) a representative of the Division of Child and Family Services;
- (2) a representative of the Division of Youth Corrections;
- (3) directors of agencies [served]located in a district such as detention centers, secure lockup facilities and observation and assessment units;
- (4) a representative of community-based alternative programs for custodial juveniles such as Heritage Group Home and Odyssey House; and
- (5) a representative of the [total]school district.

B. The council shall adopt by-laws for its operation.

C. Local interagency advisory councils shall meet at least quarterly.

KEY: students, education, juvenile courts
[July 19, 1999]2001
Notice of Continuation January 14, 1998

Art X Sec 3
53A-1-403(1)
53A-1-401(3)



Education, Administration
R277-911
Secondary Applied Technology
Education

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 23671

FILED: 04/16/2001, 16:03

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the amendment is to allow multi-district Applied Technology Education (ATE) directors to have other administrative responsibilities in a school district.

SUMMARY OF THE RULE OR CHANGE: The amendment strikes language limiting a multi-district ATE director's administrative responsibility.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-15-202

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no anticipated cost or savings to state budget because the rule affects school district employees only.

❖LOCAL GOVERNMENTS: The amendment allows a multi-district ATE administrator to have additional administrative responsibilities which could result in a savings of personnel costs to a school district ranging from \$20,000 to \$70,000 per district depending on district size and administrative assignment.

❖OTHER PERSONS: There are no immediate cost or savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for affected persons may result in a savings of personnel costs to a school district ranging from \$20,000 to \$70,000 per district depending on district size and administrative assignment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses. Steven O. Laing

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Education
Administration
250 East 500 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol B. Lear at the above address, by phone at (801) 538-7835, by FAX at (801) 538-7768, or by Internet E-mail at clear@usoe.k12.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: Carol B. Lear, Coordinator School Law and Legislation

**R277. Education, Administration.
R277-911. Secondary Applied Technology Education.**

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R277-911-9. Disbursement of Funds--School District WPUs.

A. Twenty (20) WPUs are allocated to each school district, or 25 WPUs may be allocated to each district that consolidates applied technology administrative services with one or more other districts conducting approved programs. To qualify for the 20 WPUs per district, the district Applied Technology Education Director shall:

(1) hold a current or be in the process of completing requirements for Utah Administrative/Supervisory Certification specified in R277-505;

(2)(a) have an endorsement in at least one applied technology area listed in R277-518, Vocational-Technical Certificates, and have four years of experience as a full-time applied technology educator; or

(b) complete a prescribed in-service program provided by the USOE within a period of two years following local board appointment as a district Applied Technology Education Director.

B. To qualify for 25 WPUs under multidistrict administration, districts shall employ a full-time multidistrict ATE director[who has no other responsibilities than ATE administration].

C. [Certification Standards, R277-518, shall apply to multidistrict Directors.

~~D.~~ In addition to the WPUs appropriated to school districts qualifying according to the above criteria, each approved high school (those schools supported by the State Minimum School Funds as high schools) may qualify for funding according to the following criteria:

(1) Ten (10) WPUs are allocated to each high school that:

(a) conducts approved programs in a minimum of two ATE areas e.g. agriculture; business; family and consumer sciences; health science and technology; marketing; trade, technical and industrial education; and technology education.

(b) conducts a minimum of six different state-approved CIP coded courses. Consolidated courses in small schools may count as more than one course as approved by the appropriate state applied technology specialist(s);

(2) Fifteen (15) WPUs are allocated to each high school that:

(a) conducts approved programs in a minimum of three ATE areas;

(b) conducts a minimum of nine different state-approved CIP coded courses. Consolidated courses in small schools may count as more than one course as approved by the appropriate state applied technology specialist(s);

(c) has at least one approved ATE student leadership organization;

(3) Twenty (20) WPUs are allocated to each high school that:
(a) conducts approved programs in a minimum of four ATE areas,

(b) conducts a minimum of twelve different state-approved CIP coded courses. Consolidated courses in small schools may count more than one course as approved by the appropriate state applied technology specialist(s),

(c) has at least two approved ATE student leadership organizations;

(4) Twenty-five (25) WPUs are allocated to each high school that:

(a) conducts approved programs in a minimum of five ATE areas,

(b) conducts a minimum of fifteen different state-approved CIP coded courses. Consolidated courses in small schools may count more than one course as approved by the appropriate state applied technology specialist(s),

(c) has at least three approved ATE student leadership organizations.

[E]D. Also, a maximum of one approved alternative high school, as outlined in R277-730, per district may qualify. Districts sharing an alternative school share receive a prorated share.

[F]E. Programs and courses provided through district technical centers, ATCs, and colleges shall not receive funding under this section.

.....

KEY: technical education, applied technology education*

~~[July 27, 1995]~~2001

Art X Sec 3

Notice of Continuation September 12, 1997

53A-15-201

53A-15-202

53A-17a-113 through 115



**Environmental Quality, Drinking Water
R309-201**

(Changed to R309-500)

Facility Design and Operation: Plan Review, Operation and Maintenance Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23655

FILED: 04/16/2001, 11:03

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this rule is to describe plan review procedures and requirements, clarify projects requiring review, and inspection requirements for drinking water projects. This change is primarily a re-numbering of Rule R309-201 to

conform with a re-numbering scheme approved by the Drinking Water Board to allow for forthcoming rule changes mandated by the federal Safe Drinking Water Act (SDWA).

SUMMARY OF THE RULE OR CHANGE: This primarily is a re-numbering of existing Rule R309-201 with some minor corrections to bring clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--Because this is primarily a re-numbering of existing Rule R309-201, there will be no increased work load to staff nor any change to the State budget as a result of this proposed change.

❖LOCAL GOVERNMENTS: None--Because this is primarily a re-numbering of existing Rule R309-201, there will be no increased work load to staff nor any change to local government as a result of this proposed change.

❖OTHER PERSONS: None--Because this is primarily a re-numbering of existing Rule R309-201, there will be no increased work load to staff nor any change to other persons as a result of this proposed change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Because this rule change deals only with minor clarification and re-numbering of an existing rule there will be no additional cost to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The department agrees that the proposed rule change will not have any fiscal impact on public water systems or affiliated businesses such as engineering firms which provide services to these systems.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Drinking Water
Second Floor
150 North 1950 West
PO Box 144830
Salt Lake City, UT 84114-4830, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Michael B. Georgeson or William B. Birkes at the above address, by phone at (801) 536-4197 or (801) 536-4201, by FAX at (801) 536-4211, or by Internet E-mail at mgeorgeson@deq.state.ut.us or bbirkes@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: Kevin W. Brown, Director

R309. Environmental Quality, Drinking Water.

R309-500[201]. Facility Design and Operation: Plan Review, Operation and Maintenance Requirements.

R309-500[201]-1. Purpose.

The purpose of this rule is to describe plan review procedures and requirements, clarify projects requiring review, and inspection requirements for drinking water projects. It is intended to be applied in conjunction with rules R309-500[201] through R309-550[211]. Collectively, these rules govern the design, construction, operation and maintenance of public drinking water system facilities. These rules are intended to assure that such facilities are reliably capable of supplying adequate quantities of water which consistently meet applicable drinking water quality requirements and do not pose a threat to general public health.

R309-500[201]-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code[~~Annotated~~] and in accordance with 63-46a of the same, known as the Administrative Rulemaking Act.

R309-500[201]-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110[200] but may be further clarified herein.

R309-500[201]-4. General.

(1) Construction and Operation of New Facilities.

As authorized in 19-4-106(3) of the Utah Code[~~Annotated~~], the Executive Secretary may review plans, specifications, and other data pertinent to proposed or expanded water supply systems to insure proper design and construction.

Plans and specifications and a business plan as required by R309-800-5, along with a completed project notification form, shall be submitted to the Executive Secretary for any new water systems or previously un-reviewed water systems unless acceptable data can be presented that the proposed or existing water system will not become a "public water system" as defined in 19-4-102 of the Utah Code[~~Annotated~~] or in R309-110[200].

Construction of new facilities for public water systems or existing facilities of previously un-reviewed public drinking water systems shall conform with rules R309-500[201] through R309-550[211]; the "Facility Design and Operation" rules. There may be times in which the requirements of the Facility Design and Operation rules are not appropriate. Thus, the Executive Secretary may grant an "exception" to the Facility Design and Operation rules if it can be shown that the granting of such an exception will not jeopardize the public health.

Construction of a public drinking water project shall not begin until complete plans and specifications have been approved in writing by the Executive Secretary unless waivers have been issued as allowed by R309-500[201]-6(3). This approval shall be referred to as the Plan Approval.

Furthermore, no new public drinking water facility shall be put into operation until written approval to do so has been given by the Executive Secretary or this requirement waived. This approval is referred to as the Operating Permit.

(2) Existing Facilities.

All existing public drinking water systems shall be capable of reliably delivering water which meets the minimum current standard of drinking water quantity and quality requirements~~rules~~. The Executive Secretary may require modification of existing systems in accordance with R309-500~~[201]~~ through R309-550~~[211]~~ when such modifications are needed to reliably achieve minimum quantity and quality requirements.

(3) Operation and Maintenance of Existing Facilities.

Public drinking water system facilities shall be operated and maintained in a manner which protects the public health. As a minimum, the operation and maintenance procedures of R309-500~~[201]~~ through R309-550~~[211]~~ shall be adhered to.

R309-500~~[201]~~-5. Public Drinking Water Project.

(1) Definition.

A public drinking water project, requiring the submittal of a project notification form along with plans and specifications, is any of the following:

(a) The construction of any facility for a proposed drinking water system (see 19-4-106(3) of the Utah Code ~~[Annotated]~~ or R309-500~~[201]~~-4(1) above describing the authority of the Executive Secretary).

(b) Any addition to, or modification of, the facilities of an existing public drinking water system which may affect the quality or quantity of water delivered.

(c) Any activity, other than on-going operation and maintenance procedures, which may affect the quality or quantity of water delivered by an existing public drinking water system. Such activities include:

(i) the interior re-coating or re-lining of any raw or drinking water storage tank, or water storage chamber within any treatment facility,

(ii) the "in-situ" re-lining of any pipeline,

(iii) a change or addition of any primary coagulant water treatment chemical (excluding filter, floc or coagulant aids) when the proposed chemical does not appear on a list of chemicals pre-approved by the Executive Secretary for a specific treatment facility, and

(iv) the re-development of any spring or well source or replacement of a well pump with one of different capacity.

(2) On-going Operation and Maintenance Procedures.

On-going operation and maintenance procedures are not considered public drinking water projects and, accordingly, are not subject to the project notification, plan approval and operating permit requirements of this rule. However, these activities shall be carried out in accordance with all operation and maintenance requirements contained in R309-500~~[201]~~ through R309-550~~[212]~~ and specifically the disinfection, flushing and bacteriological sampling and testing requirements of ANSI/AWWA C651-92 for pipelines, ANSI/AWWA C652-92 for storage facilities, and ANSI/AWWA C654-97~~[87]~~ for wells before they are placed back into service. The following activities are considered to be on-going operation and maintenance procedures:

(a) pipeline leak repair,

(b) replacement of existing deteriorated pipeline where the new pipeline segment is the same size as the old pipeline,

(c) distribution pipeline additions where the pipeline size is the same as the main supplying the addition, the length is less than

500 feet and contiguous segments of new pipe total less than 1000 feet in any fiscal year,

(d) entry into a drinking water storage facility for the purposes of inspection, cleaning and maintenance, and

(e) replacement of equipment or pipeline appurtenances with the same type, size and rated capacity (fire hydrants, valves, pressure regulators, meters, service laterals, chemical feeders and booster pumps including deep well pumps).

R309-500~~[201]~~-6. Plan Approval Procedure.

(1) Project Notification.

The Division shall be notified prior to the construction of any "public drinking water project" as defined in R309-500~~[201]~~-5(1) above. The notification may be prior to or simultaneous with submission of construction plans and specifications as required by R309-500~~[201]~~-6(2) below. Notification shall be made by the management of the regulated public water system on a form provided by the Division. Information required by this form shall be determined by the Division and may include:

(a) whether the project is for a new or existing public drinking water system,

(b) the professional engineer, registered in the State of Utah, designing the project and his/her experience designing public drinking water projects within the state,

(c) the individual(s) who will be inspecting the project during construction and whether such inspection will be full-time or part time,

(d) whether required approvals or permits from other governmental agencies (e.g. local planning commissions, building inspectors, Utah Division of Water Rights) are awaiting approval by the Executive Secretary, the agency's name and contact person,

(e) the fire marshal~~[marshall]~~, fire district or other entity having legal authority to specify requirements for fire suppression in the project area,

(f) for community and non-transient non-community public water systems ~~[serving more than 800 individuals]~~ or any public water system treating surface water, the name of the certified operator who is, or will be, in direct responsible charge of the water system,

(g) whether the water system has a registered professional engineer employed, appointed or designated as being directly responsible for the entire system design and his or her name and whether the system is requesting waiving of plan submittal under conditions of R309-500-6 (3),

(h) the anticipated construction schedule, and

(i) a description of the type of legal entity responsible for the water system (i.e. corporation, political subdivision, mutual ownership, individual ownership, etc.) and the status of the entity with respect to the rules of the Utah Public Service Commission.

(2) Pre-Construction Requirements.

All of the following shall be accomplished before construction of any public drinking water project commences:

(a) Contract documents, plans and specifications for a public drinking water project shall be submitted to the Division at least 30 days prior to the date on which action is desired unless the system is eligible for and has requested waiving of plan submittal. Any submittal~~[This]~~ shall include engineering reports, pipe network hydraulic analyses, water consumption data, supporting information, evidence of rights-of-way and reference to any

previously submitted master plans pertinent to the project, along with a description of a program for keeping existing water works facilities in operation during construction so as to minimize interruption of service.

(b) Plans and specifications shall be prepared for every anticipated public water system project. The design utilized shall conform to the requirements of R309-500[201] through R309-550[211]. Furthermore, the plans and specification shall be sufficiently detailed to assure that the project shall be properly constructed. Drawings shall be compatible with Division's document storage and microfilming practice. Drawings which are illegible or of unusual size shall not be accepted for review. Drawing size shall not exceed 30" x 42" nor be less than 8-1/2" x 11".

(c) The plans and specifications shall be stamped and signed by a licensed professional engineer in accordance with Section 58-22-602(2) of the Utah Code[Annotated].

(d) Plans and specifications shall be reviewed for conformance with R309-500[201] through R309-550[211]. No work shall commence on a public water system project until a plan approval has been issued by the Executive Secretary unless conditions outlined in R309-500-6(3) are met and waiving of plan submittal has been requested. If construction or the ordering of substantial equipment has not commenced within one year, a renewal of the Plan Approval shall be obtained prior to proceeding with construction.

(e) If, in the judgment of the Executive Secretary, alternate designs or specific solutions can protect the public health to the same or greater extent as achieved in R309-500[201] through R309-550[211], the Executive Secretary may grant an exception thereto (see the third paragraph of R309-500-4(1)[102-2-2]).

(f) Novel equipment or treatment techniques may be developed which are not specifically addressed by these rules. These may be accepted by the Executive Secretary if it can be shown that:

(i) the technique will produce water meeting the requirements of R309-200[103] of these rules,

(ii) the Executive Secretary has determined that it will protect public health to the same extent provided by comparable treatment processes outlined in these rules, and

(iii) the Executive Secretary has determined the technique is as reliable as any comparable treatment process outlined in these rules.

(3) Waiving of Plan Submittal Requirement.

With identification of a professional engineer, as indicated below, on a project notification form the [The] plan submittal requirement may be waived for certain projects. In these instances, in lieu of plans and specifications, a "certification of rule conformance" shall be submitted along with the additional information required for an operating permit (see R309-500-9), signed by the professional engineer identified to Executive Secretary in (b) or, if the system has not employed, appointed, or designated such, the registered professional engineer who prepared the items in (a). Projects eligible for this waiving of plan submittal are:

(a) distribution system improvements which conform to a "master plan" previously reviewed and approved by the Executive Secretary and installed in accordance with the "system's standard

drawings," also previously reviewed and approved by the Executive Secretary, or

(b) distribution system improvements consisting solely of pipelines and pipeline appurtenances (excluding pressure reducing valve stations and in-line booster pump stations);

(i) less than or equal to 4 inches in diameter in water systems (without fire hydrants) serving solely a residential population less than 3,300;

(ii) less than or equal to 8[6] inches in diameter in water systems (with fire hydrants) providing water for mixed use (commercial, industrial, agricultural and/or residential) to a population less than 3,300;

(iii) less than or equal to 12 inches in diameter in water systems (with fire hydrants) providing water for mixed use to a population between 3,300 and 50,000;

(iv) less than or equal to 16 inches in diameter in water systems (with fire hydrants) providing water for mixed use to a population greater than 50,000.

Additionally, the above systems shall employ, appoint or designate a registered professional engineer who is directly responsible for the entire public water system design and identify this individual to the Executive Secretary before being eligible for waiving of plan submittal requirements.

R309-500[201]-7. Inspection During Construction.

Staff from the Division, or the appropriate local health department, after reasonable notice and presentation of credentials may make visits to the work site to assure compliance with these rules.

R309-500[201]-8. Change Orders.

Any deviations from approved plans or specifications affecting capacity, hydraulic conditions, operating units, the functioning of water treatment processes, or the quality of water to be delivered, shall be reported to the Executive Secretary. If deemed appropriate, the Executive Secretary may require that revised plans and specifications be submitted for review. Revised plans or specifications shall be submitted to the Division in time to permit the review and approval of such plans or specifications before any construction work, which will be affected by such changes, is begun.

R309-500[201]-9. Issuance of Operating Permit.

The Division shall be informed when a public drinking water project, or a well-defined phase thereof, is at or near completion. The new or modified facility shall not be used until an "Operating Permit" is issued, in writing, by the Executive Secretary. This permit shall not be issued until all of the following items are submitted and found to be acceptable for all projects with the exception of distribution lines (including in-line booster pump stations or pressure reducing stations), which may be placed into service prior to submittal of all items if the professional engineer responsible for the entire system, as identified to the Executive Secretary, has received items (1) and (4):

(1) a statement from a registered professional engineer that all conditions of Plan Approval were accomplished ("certification of rule conformance"),

(2) as-built "record" drawings; unless no changes are made from previously submitted and approved plans during construction,

- (3) confirmation that a copy of the as-built "record" drawings has been received by the water system owner,
- (4) evidence of proper flushing and disinfection in accordance with the appropriate ANSI/AWWA Standard,
- (5) where appropriate, water quality data
- (6) a statement from the Engineer indicating what changes to the project were necessary during construction, and certification that all of these changes were in conformance with these rules ("certification of rule conformance"),
- (7) all other documentation which may have been required during the plan review process, and
- (8) confirmation that the water system owner has been provided with an Operation and Maintenance manual for the new facility.

R309-500[201]-10. Adequacy of Wastewater Disposal.

Plans and specifications for new water systems, or facilities required as a result of proposed subdivision additions to existing water systems, shall only be approved if the method(s) of wastewater disposal in the affected area have been approved, or been determined to be feasible, by the Utah Division of Water Quality or the appropriate local health agency.

R309-500[201]-11. Financial Viability.

Owners of new or existing water systems are encouraged to develop realistic financial strategies for recouping the costs of constructing and operating their systems. Plans for water system facilities shall not be approved when it is obvious that public health will eventually be threatened because the anticipated usage of the system will not generate sufficient funds to insure proper operation and maintenance of the system (see also R309-352-5).

R309-500[201]-12. Fee Schedule.

The Division may charge a fee for the review of plan and specifications. A fee schedule is available from the Division.

R309-500[201]-13. Other Permits.

Local, county or other state permits may also be necessary before beginning construction of any drinking water project.

R309-500[201]-14. Reference Documents.

All references made in R309-500[201] through R309-550[211] are available for inspection at the Division's office.

R309-500[201]-15. Violations of These Rules.

Violations of rule contained in R309-500[201] through R309-550[211] are subject to the provisions of the Utah Safe Drinking Water Act (Title 19, Chapter 4 Section 109 of the Utah Code) and may be subject to fines and penalties.

KEY: drinking water, plan review, operation and maintenance requirements, permits
[January 1, 1998]2001 **19-4-104**

Environmental Quality, Drinking Water
R309-202
(Changed to R309-505)
Facility Design and Operation:
Minimum Treatment Requirements

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 23656
 FILED: 04/16/2001, 11:03
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this rule is to specify the type and degree of treatment which must be applied to the various type of water sources found in Utah. This change is primarily a re-numbering of Rule R309-202 to conform with a re-numbering scheme approved by the Drinking Water Board to allow for forthcoming rule changes mandated by the federal Safe Water Drinking Act (SDWA).

SUMMARY OF THE RULE OR CHANGE: This primarily is a re-numbering of existing Rule R309-202 with some minor corrections to bring clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** None--Because this is primarily a re-numbering of existing Rule R309-202, there will be no increased work load to staff nor any change to the State budget as a result of this proposed change.

❖**LOCAL GOVERNMENTS:** None--Because this is primarily a re-numbering of existing Rule R309-202, there will be no increased work load to staff nor any change to local government as a result of this proposed change.

❖**OTHER PERSONS:** None--Because this is primarily a re-numbering of existing Rule R309-202, there will be no increased work load to staff nor any change to other persons as a result of this proposed change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Because this rule change deals only with minor clarification and re-numbering of an existing rule there will be no additional cost to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The department agrees that the proposed rule change will not have any fiscal impact on public water systems or affiliated businesses such as engineering firms which provide services to these systems.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Drinking Water
Second Floor
150 North 1950 West
PO Box 144830
Salt Lake City, UT 84114-4830, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Michael B. Georgeson or William B. Birkes at the above address, by phone at (801) 536-4197 or (801) 536-4201, by FAX at (801) 536-4211, or by Internet E-mail at mgeorges@deq.state.ut.us or bbirkes@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: Kevin W. Brown, Director

R309. Environmental Quality, Drinking Water.

R309-505[202]. Facility Design and Operation: Minimum Treatment Requirements.

R309-505[202]-1. Purpose.

This rule specifies the type and degree of treatment which must be applied to the various types of water sources found in Utah. It is intended to be applied in conjunction with rules R309-500[201] through R309-550[211]. Collectively, these rules govern the design, construction, operation and maintenance of public drinking water system facilities. These rules are intended to assure that such facilities are reliably capable of supplying adequate quantities of water which consistently meet applicable drinking water quality requirements and do not pose a threat to general public health.

R309-505[202]-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code [~~Annotated~~] and in accordance with Title 63, Chapter 46a of the same, known as the Administrative Rulemaking Act.

R309-505[202]-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110[200] but may be further clarified herein.

R309-505[202]-4. Pre-design Consultation.

The type and degree of treatment which shall be given a public drinking water source depends upon the nature of the source and the chemical and biological characteristics of the water it produces. Prior to the design of any water treatment facility, the Executive Secretary shall be consulted and concur that the contemplated treatment method is appropriate for the source being treated.

R309-505[202]-5. Drinking Water Quality Standards.

Drinking water provided for human consumption by public drinking water systems must meet all water quality standards as specified in R309-103. Sources of water which do not meet applicable standards, or may not meet such standards due to the proximity of contamination sources, shall be appropriately treated as specified herein or physically disconnected from the drinking water system.

R309-505[202]-6. Surface Water Sources.

(1) Determination of Surface Water Source.

A surface water source is any water source which rests or travels above ground for any period of time. Such sources include rivers, streams, creeks, lakes, reservoirs, ponds or impoundments.

(2) Treatment of a Surface Water Source.

(a) As a minimum, surface water sources shall be given complete treatment as specified in R309-525[206] or R309-530[207].

(b) All surface waters shall be treated to assure:

(i) at least 99.9 percent (3-log) removal and/or inactivation of Giardia lamblia cysts between a point where the raw water is not subject to re-contamination by surface water runoff and a point downstream before or at the first customer;

(ii) at least 99.99 percent (4-log) removal and/or inactivation of viruses between a point where the raw water is not subject to re-contamination by surface water runoff and a point downstream before or at the first customer; and

(iii) removal of substances, as needed, to comply with the quality requirements of R309-103.

(c) A public water system using a surface water source is considered to be in compliance with the requirements in subsection (b), above, if the treatment technique utilized produces water meeting the quality provisions of R309-103, provided that all monitoring required by R309-104 has been accomplished.

R309-505[202]-7. Low Quality Ground Water Sources.

(1) Determination of a Low Quality Ground Water Source.

(a) A low quality ground water source is any well or spring which, as determined by the Executive Secretary, cannot reliably and consistently meet the drinking water quality standards described in R309-103. A water source shall be deemed to be a low quality ground water source if any of the following conditions exist:

(i) It is determined by the Executive Secretary that the source is Ground Water Under the Direct Influence of Surface Water.

(A) Classification of existing ground water sources, as to whether or not they are under direct influence of surface water, shall be made by the Executive Secretary. [~~Such classification for non-community ground water sources shall be made by June 29, 1999.~~]

(B) Frequent monitoring of turbidity, temperature, pH and conductivity of source water, in conjunction with similar monitoring of nearby surface waters may, if properly documented, provide sufficient evidence that the source is not influenced.

(C) Classification of existing sources shall be based upon evaluation of part or all of the following:

(I) Records review; including review of plans and specifications used for construction of collection facilities as

submitted for review and approval prior to construction; review of as-built plans as submitted after construction, especially where springs are concerned; review of previous sanitary surveys; and review of any system bacteriological violations which may be linked directly to a source.

(II) Results of written survey form.

(III) On-site inspection by Division personnel.

(IV) Special tests such as Microscopic Particulate Analysis (MPA), dye tracer studies, or time of travel studies done in conjunction with the source protection program. Because of critical timing for tests such as the MPA, accelerated monitoring and reporting of water characteristics as mentioned in R309-505-7(1)(a)(i)(B)[~~104-4.5.3~~] above, may be required prior to MPA sampling.

(b) Testing for microbiological, chemical or radiologic contaminants determines that the drinking water quality requirements of R309-103 cannot be reliably or consistently met.

(c) The location, design or construction of the well or spring makes it, in the judgement of the Executive Secretary, susceptible[~~vulnerable~~] to natural or man-caused contamination.

(2) Treatment of a Low Quality Ground Water Source.

Low quality ground water sources shall be treated to assure that all chemical and biological contaminants are reduced to the levels which are reliably and consistently below MCL's prescribed in R309-103. If a source is determined to be ground water under the direct influence of surface water the following is required:

(a) Upon determination that a ground water source is under the direct influence of surface water, conventional surface water treatment, as specified in R309-525[~~206~~], or an approved equivalent, as specified in R309-530[~~207~~], shall be installed within 18 months or the source must be abandoned as a source of drinking water and physically disconnected from the drinking water system.

(b) Systems which must retain use of ground water sources classified as under direct influence of surface water shall start disinfection immediately on those sources and monitor in accordance with residual disinfectant monitoring under treatment plant monitoring and reporting found in R309-104-[~~4.7.4~~] as well as maintain satisfactory "CT" values in accordance with R309-103-2.7 during the 18 month interim period before conventional surface water treatment, or an approved equivalent, is installed. Chlorine, chlorine dioxide, chloramine, and ozone are considered capable of attaining required levels of disinfection.

(c) Once a ground water source is classified as under the influence of surface water, it must be considered to be a surface water source. Thus, all requirements in these rules which pertain to surface water sources also pertain to ground water under the direct influence of surface water.

R309-505[202]-8. High Quality Ground Water Sources.

(1) Determination of a High Quality Ground Water Source.

A well or spring shall be deemed to be a high quality ground water source if the following conditions are met:

(a) The design and construction of the source are in conformance with these rules.

(b) Testing establishes that all applicable drinking water quality standards, as given in R309-103, are met, and can be expected to be met in the future.

(c) The source is not susceptible[~~vulnerable~~] to natural or man-caused contamination and, furthermore, adequate protection

zones and management areas have been established in accordance with R309-600[~~113~~]

(2) Treatment of a High Quality Ground Water Source.

A high quality ground water source requires no treatment.

R309-505[202]-9. Best Available Technologies (BATs).

EPA has identified Best Available Technologies (BATs) in national regulations regarding drinking water. BATs include Activated Alumina, Coagulation/Filtration, Direct Filtration, Diatomite Filtration, Electrolysis Reversal, Corrosion Control, Granulated Activated Carbon, Ion Exchange, Lime Softening, Reverse Osmosis, Polymer Addition and Packed Tower Aeration. Where a BAT is used to reduce the concentration of a contaminant:

(a) the requirements of R309-500[~~201~~] through R309-550[~~211~~] shall govern if the BAT is included in these rules.

(b) if the BAT is not included in R309-500[~~201~~] through R309-550[~~211~~], review of plans and specifications for a project will be governed by R309-530[~~207~~]-9, New Treatment Processes or Equipment.

R309-505[202]-10. Point-of-Entry Treatment Devices.

Where drinking water does not meet the quality standards of R309-103 and the available water system treatment methods are determined to be unreasonably costly or otherwise undesirable, the Executive Secretary may permit the public water supplier to install and maintain point-of-entry treatment devices which have been proven to be appropriate, safe and effective as determined through testing and compliance with protocols established by EPA's Environmental Technology Verification Program (ETV)[~~the Association of State Drinking Water Administrators (ASDWA)~~] or the applicable ANSI/NSF Standard(s). The installation and maintenance of such devices shall be the sole responsibility[~~responsibility~~] of the public water supplier and service contracts shall make this clear.

R309-505[202]-11. Temporary Use of Bottled Water or Point-of-Use Treatment Devices.

Initially the use of bottled water, or point-of-use treatment devices, may be allowed on a temporary basis by the Executive Secretary. Their continued use shall be reviewed at least annually and only allowed after the Executive Secretary is satisfied[~~satisfied~~] that the PWS has made reasonable attempts since the last review[~~review~~] to provide acceptable treatment of a more permanent nature without success. Point-of-use treatment devices used shall only be those proven to be appropriate, safe and effective as determined through testing and compliance with protocols established by EPA's Environmental Technology Verification Program (ETV)[~~the Association of State Drinking Water Administrators (ASDWA)~~] or the applicable ANSI/NSF Standard(s). Their installation and maintenance shall be under the control of a public water system and this made clear in service contracts between the consumer and the PWS.

KEY: drinking water, surface water treatment, low quality ground water, high quality ground water

[~~January 1, 1998~~]2001

19-4-104

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Environmental Quality, Drinking Water
R309-203
 (Changed to R309-510)
 Facility Design and Operation:
 Minimum Sizing Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23657

FILED: 04/16/2001, 11:03

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this rule is to specify requirements for the sizing of public drinking water facilities such as sources (along with their associated treatment facilities), storage tanks, and pipelines. This change is primarily a re-numbering of Rule R309-203 to conform with a re-numbering scheme approved by the Drinking Water Board to allow for forthcoming rule changes mandated by the federal Safe Drinking Water Act (SDWA).

SUMMARY OF THE RULE OR CHANGE: This primarily is a re-numbering of existing Rule R309-203 with some minor corrections to bring clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--Because this is primarily a re-numbering of existing Rule R309-203, there will be no increased work load to staff nor any change to the State budget as a result of this proposed change.

❖LOCAL GOVERNMENTS: None--Because this is primarily a re-numbering of existing Rule R309-203, there will be no increased work load to staff nor any change to local government as a result of this proposed change.

❖OTHER PERSONS: None--Because this is primarily a re-numbering of existing Rule R309-203, there will be no increased work load to staff nor any change to other persons as a result of this proposed change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Because this rule change deals only with minor clarification and re-numbering of an existing rule there will be no additional cost to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The department agrees that the proposed rule change will not have any fiscal impact on public water systems or affiliated businesses such as engineering firms which provide services to these systems.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
 Drinking Water

Second Floor
 150 North 1950 West
 PO Box 144830
 Salt Lake City, UT 84114-4830, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Michael B. Georgeson or William B. Birkes at the above address, by phone at (801) 536-4197 or (801) 536-4201, by FAX at (801) 536-4211, or by Internet E-mail at mgeorges@deq.state.ut.us or bbirkes@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: Kevin W. Brown, Director

R309. Environmental Quality, Drinking Water.

R309-510[203]. Facility Design and Operation: Minimum Sizing Requirements.

R309-510[203]-1. Purpose.

This rule specifies requirements for the sizing of public drinking water facilities such as sources (along with their associated treatment facilities), storage tanks, and pipelines. It is intended to be applied in conjunction with R309-500[201] through R309-550[211]. Collectively, these rules govern the design, construction, operation and maintenance of public drinking water system facilities. These rules are intended to assure that such facilities are reliably capable of supplying adequate quantities of water which consistently meet applicable drinking water quality requirements and do not pose a threat to general public health.

R309-510[203]-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code [Annotated] and in accordance with 63-46a of the same, known as the Administrative Rulemaking Act.

R309-510[203]-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110[200] but may be further clarified herein.

R309-510[203]-4. General.

This rule provides estimations which shall be used in the design of new systems, or if there is an absence of data collected by the public water system meeting the required confidence level for a reduction mentioned below, when evaluating [sizing of] water sources, storage facilities and pipelines. Within each of these three broad categories, the designer shall ascertain the contributions on demand from the indoor use of water, the outdoor use of water, and fire suppression activities (if required by local authorities). These components must be added together to determine the total demand on a given facility.

R309-510[203]-5. Reduction of Requirements.

If acceptable data are presented, at or above the 90% confidence level, showing that the requirements made herein are excessive for a given project, the requirements may be appropriately reduced on a case by case basis by the Executive Secretary. In the case of Recreational Home Developments, in order to qualify for a quantity reduction, not only must the actual water consumption be less than quantities required by rule (with the confidence level indicated above) but enforceable policy restrictions must have been approved which prevent the use of such dwellings as a permanent domicile and these restrictions shall have been consistently enforced.

R309-510[203]-6. Water Conservation.

This rule is based upon typical current water consumption patterns in the State of Utah. They may be excessive in certain settings where legally enforceable water conservation measures exist. In these cases the requirements made in this section may be reduced on a case-by-case basis by the Executive Secretary.

R309-510[203]-7. Source Sizing.

(1) Peak Day Demand and Average Yearly Demand.

Sources shall legally and physically meet water demands under two separate conditions. First, they shall meet the anticipated water demand on the day of highest water consumption. This is referred to as the peak day demand. Second, they shall also be able to provide one year's supply of water, the average yearly demand.

(2) Estimated Indoor Use.

In the absence of firm water use data, Tables 510[203]-1 and 510[203]-2 shall be used to estimate the peak day demand and average yearly demand for indoor water use.

TABLE 510[203]-2
Source Demand for Individual Establishments [Non-Community Water Systems] (a)
(Indoor Use)

Type of Establishment	Peak Day Demand (gpd)
Airports	
a. per passenger	3
b. per employee	15
Boarding Houses	
a. for each resident boarder and employee	50
b. for each nonresident boarders	10
Bowling Alleys, per alley	
a. with snack bar	100
b. with no snack bar	85
Churches, per person	5
Country Clubs	
a. per resident member	100
b. per nonresident member present	25
c. per employee	15
Dentist's Office	
a. per chair	200
b. per staff member	35
Doctor's Office	
a. per patient	10
b. per staff member	35
Fairgrounds, per person	1
Fire Stations, per person	
a. with full-time employees and food prep.	70
b. with no full-time employees and no food prep.	5
Gyms	
a. per participant	25
b. per spectator	4
Hairdresser	
a. per chair	50
b. per operator	35
Hospitals, per bed space	250
Industrial Buildings, per 8 hour shift, per employee (exclusive of industrial waste)	
a. with showers	35
b. with no showers	15
Launderette, per washer	580
Movie Theaters	
a. auditorium, per seat	5
b. drive-in, per car space	10
Nursing Homes, per bed space	280
Office Buildings and Business Establishments, per shift, per employee (sanitary wastes only)	
a. with cafeteria	25
b. with no cafeteria	15
Picnic Parks, per person (toilet wastes only)	5
Restaurants	
a. ordinary restaurants (not 24 hour service)	35 per seat
b. 24 hour service	50 per seat
c. single service customer utensils only	2 per customer
d. or, per customer served (includes toilet and kitchen wastes)	10
Rooming House, per person	40
Schools, per person	
a. boarding	75
b. day, without cafeteria, gym or showers	15
c. day, with cafeteria, but no gym or showers	20
d. day, with cafeteria, gym and showers	25
Service Stations ^(b) , per vehicle served	10
Skating Rink, Dance Halls, etc., per person	
a. no kitchen wastes	10
b. Additional for kitchen wastes	3

TABLE 510[203]-1
Source Demand for Indoor Use [Community Water Systems] (Indoor Use)

Type of Connection	Peak Day Demand	Average Yearly Demand
<u>Year-round use</u>		
Residential	800 gpd/conn	146,000 gal./conn
ERC [other]	800 gpd/ERC	146,000 gal./ERC
<u>Seasonal/Non-residential use</u>		
Modern Recreation Camp	60 gpd/person	(see note 1)
Semi-Developed Camp		
a. with pit privies	5 gpd/person	(see note 1)
b. with flush toilets	20 gpd/person	(see note 1)
Hotel, Motel, and Resort	150 gpd/unit	(see note 1)
Labor Camp	50 gpd/person	(see note 1)
Recreational Vehicle Park	100 gpd/pad	(see note 1)
Roadway Rest Stop	7 gpd/vehicle	(see note 1)
Recreational Home Development	400 gpd/conn	(see note 1)

Note 1. Annual demand shall be based on the number of days the system will be open during the year times the peak day demand unless data acceptable to the Division, with a confidence level of 90% or greater showing a lesser annual consumption, can be presented.

Ski Areas, per person (no kitchen wastes)	10
Stores	
a. per public toilet room	500
b. per employee	11
Swimming Pools and Bathhouses ^(c) , per person	10
Taverns, Bars, Cocktail Lounges, per seat	20
Visitor Centers, per visitor	5

NOTES FOR TABLE 510[203]-2:

1. Source capacity must at least equal the peak day demand of the system. Estimate this by assuming the facility is used to its maximum.

2. Generally, storage volume must at least equal one average day's demand.

3. Peak instantaneous demands may be estimated by fixture unit analysis as per Appendix E of the 200 International Uniform Plumbing Code.

(a) When more than one use will occur, the multiple use shall be considered in determining total demand. Small industrial plants maintaining a cafeteria and/or showers and club houses or motels maintaining swimming pools and/or laundries are typical examples of multiple uses. Uses other than those listed above shall be considered in relation to established demands from known or similar installations.

(b) or 250 gpd per pump,

(c) $20 \times \{ \text{Water Area (Ft}^2) / 30 \} + \text{Deck Area (Ft}^2)$

(3) Estimated Outdoor Use.

In the absence of firm water use data, Table 510[203]-3 shall be used to estimate the peak day demand and average yearly demand for outdoor water use. The following procedure shall be used:

(a) Determine the location of the water system on the map entitled Irrigated Crop Consumptive Use Zones and Normal Annual Effective Precipitation, Utah as prepared by the Soil Conservation Service (available from the Division). Find the numbered zone, one through six, in which the water system is located (if located in an area described "non-arable" find nearest numbered zone).

(b) Determine the net number of acres which may be irrigated. This is generally done by starting with the gross acreage, then subtract out any area of roadway, driveway, sidewalk or patio pavements along with housing foundation footprints that can be reasonably expected for lots within a new subdivision or which is representative of existing lots. Before any other land area which may be considered "non-irrigated" (e.g. steep slopes, wooded areas, etc.) is subtracted from the gross area, the Division shall be consulted and agree that the land in question will not be irrigated.

(c) Refer to Table 510[203]-3 to determine peak day demand and average yearly demand for outdoor use.

(d) The results of the indoor use and outdoor use tables shall be added together and source(s) shall be legally and physically capable of meeting this combined demand.

TABLE 510[203]-3
Source Demand for Irrigation
(Outdoor Use)

Map Zone	Peak Day Demand (gpm/irrigated acre)	Average Yearly Demand (AF/irrigated acre)
1	2.26	1.17
2	2.80	1.23
3	3.39	1.66
4	3.96	1.87
5	4.52	2.69
6	4.90	3.26

(4) Accounting for Variations in Source Yield.

The design engineer shall consider whether flow from the source(s) may vary. Where flow varies, as is the case for most springs, the minimum flowrate shall be used in determining the number of connections which may be supported by the source(s). Where historical records are sufficient, and where peak flows from the source(s) correspond with peak demand periods, the Executive Secretary may grant an exception to this requirement.

R309-510[203]-8. Storage Sizing.

(1) General.

Each storage facility shall provide:

(a) equalization storage volume, to satisfy peak day demands for water for indoor use as well as outdoor use,

(b) fire suppression storage volume, if the water system is equipped with fire hydrants and intended to provide fire fighting water, and

(c) emergency storage, if deemed appropriate by the water supplier or the Executive Secretary, to meet demands in the event of an unexpected emergency situation such as a line break or a treatment plant failures.

(2) Equalization Storage.

(a) All public drinking water systems shall be provided with equalization storage. The amount of equalization storage which must be provided varies with the nature of the water system, the extent of outdoor use and the location of the system.

(b) Required equalization storage for indoor use is provided in Table 510[203]-4. Storage requirements for non-community systems which are not listed in this table shall be determined by calculating the average day demands from the information given in Table 510[203]-2.

TABLE 510[203]-4
Storage Volume for Indoor Use

Type	Volume Required (gallons)
Community Systems	
Residential; per single resident service connection	400
Non-Residential [Others]; per Equivalent Residential Connection (ERC)	400
Non-Community Systems	
Modern Recreation Camp; per person	30
Semi-Developed Camp; per person	
a. with Pit Privies	2.5
b. with Flush Toilets	10
Hotel, Motel and Resort; per unit	75
Labor Camp; per unit	25
Recreational Vehicle Park; per pad	50
Roadway Rest Stop; per vehicle	3.5
Recreational Home Development; per connection	400

(c) Where the drinking water system provides water for outdoor use, such as the irrigation of lawns and gardens, the equalization storage volumes estimated in Table 510[203]-5 shall be added to the indoor volumes estimated in Table 510[203]-4. The procedure for determining the map zone and irrigated acreage for using Table 510[203]-5 is outlined in Section R309-510[203]-7(3).

TABLE 510[203]-5
Storage Volume for Outdoor Use

Map Zone	Volume Required (gallons/irrigated acre)
1	1,782
2	1,873
3	2,528
4	2,848
5	4,081
6	4,964

(3) Fire Suppression Storage.

Fire suppression storage shall be required if the water system is intended to provide fire fighting water as evidenced by fire hydrants connected to the piping. The design engineer shall consult with the local fire suppression authority regarding needed fire flows in the area under consideration. This information shall be provided to the Division. Where no local fire suppression authority exists, needed fire suppression storage shall be assumed to be 120,000 gallons (1000 gpm for 2 hours).

(4) Emergency Storage.

Emergency storage shall be considered during the design process. The amount of emergency storage shall be based upon an assessment of risk and the desired degree of system dependability. The Executive Secretary may require emergency storage when it is warranted to protect public health and welfare.

R309-510[203]-9. Distribution System Sizing.

(1) General Requirements.

The distribution system shall be designed to insure that a minimum of 20 psi exists at all points within the system during peak instantaneous demand conditions. If the distribution system is equipped with fire hydrants, the system shall be designed to insure that a minimum of 20 psi exists at all points within the system when needed fire flows are imposed upon the peak day demand flows of the system.

(2) Indoor Use, Estimated Peak Instantaneous Demand.

(a) For community water systems and large non-community systems, the peak instantaneous demand for each pipeline shall be assumed for indoor use as:

$$Q = 10.8 \times N^{0.64}$$

where N equals the total number of ERC's, and Q equals the total flow (gpm) delivered to the total connections served by that pipeline.

For Recreational Vehicle Parks, the peak instantaneous flow for indoor use shall be based on the following:

TABLE 510[203]-6
Peak Instantaneous Demand for Recreational Vehicle Parks

Number of Connections	Formula
0 to 59	$Q = 4N$
60 to 239	$Q = 80 + 20N^{0.5}$
240 or greater	$Q = 1.6N$

NOTES FOR TABLE 510[203]-6:

Q is total peak instantaneous demand (gpm) and N is the maximum number of connections. However, if the only water[winter] use is via service buildings the peak instantaneous demand shall be calculated for the number of fixture units as presented in Appendix E of the 2000 International[Uniform] Plumbing Code.

(b) For small non-community water systems the peak instantaneous demand to be estimated for indoor use shall be calculated on a per-building basis for the number of fixture units as presented in Appendix E of the 2000 International[Uniform] Plumbing Code.

(3) Outdoor Use, Estimated Peak Instantaneous Demand.

Peak instantaneous demand to be estimated for outdoor use is given in Table 510[203]-7. The procedure for determining the map zone and irrigated acreage for using Table 510-7 is outlined in Section R309-510-7(3)[Refer to Section R309-203-7(3) for guidance on how to apply this table].

TABLE 510[203]-7
Peak Instantaneous Demand for Outdoor Use

Map Zone	Peak Instantaneous Demand (gpm/irrigated acre)
1	4.52
2	5.60
3	6.78
4	7.92
5	9.04
6	9.80

(4) Fire Flows.

(a) Distribution systems shall be designed to deliver needed fire flows if fire hydrants are provided. The design engineer shall consult with the local fire suppression authority regarding needed fire flows in the area under consideration. This information shall be provided to the Division. Where no local fire suppression authority exists, needed fire flows shall be assumed to be 1000 gpm.

(b) If a distribution system is equipped with fire hydrants, the system shall be designed to insure that a minimum of 20 psi exists at all points within the system when fire flows are added to the peak day demand of the system. Refer to Section R309-510[203]-7 for information on determining the peak day demand of the system.

KEY: drinking water, minimum sizing, water conservation
[January 1, 1998]2001 19-4-104



Environmental Quality, Drinking Water
R309-206
(Changed to R309-525)
Facility Design and Operation:
Conventional Surface Water Treatment

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 23658
FILED: 04/16/2001, 11:03
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this rule is to specify requirements for

conventional surface water treatment plants used in public water systems. This change is primarily a re-numbering of Rule R309-206 to conform with a re-numbering scheme approved by the Drinking Water Board to allow for forthcoming rule changes mandated by the federal Safe Water Drinking Act (SDWA).

SUMMARY OF THE RULE OR CHANGE: This primarily is a re-numbering of existing Rule R309-206 with some minor corrections to bring clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--Because this is primarily a re-numbering of existing Rule R309-206, there will be no increased work load to staff nor any change to the State budget as a result of this proposed change.

❖LOCAL GOVERNMENTS: None--Because this is primarily a re-numbering of existing Rule R309-206, there will be no increased work load to staff nor any change to local government as a result of this proposed change.

❖OTHER PERSONS: None--Because this is primarily a re-numbering of existing Rule R309-206, there will be no increased work load to staff nor any change to other persons as a result of this proposed change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Because this rule change deals only with minor clarification and re-numbering of an existing rule there will be no additional cost to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The department agrees that the proposed rule change will not have any fiscal impact on public water systems or affiliated businesses such as engineering firms which provide services to these systems.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Drinking Water
Second Floor
150 North 1950 West
PO Box 144830
Salt Lake City, UT 84114-4830, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Michael B. Georgeson or William B. Birkes at the above address, by phone at (801) 536-4197 or (801) 536-4201, by FAX at (801) 536-4211, or by Internet E-mail at mgeorges@deq.state.ut.us or bbirkes@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: Kevin W. Brown, Director

R309. Environmental Quality, Drinking Water.

R309-525[206]. Facility Design and Operation: Conventional Surface Water Treatment.

R309-525[206]-1. Purpose.

This rule specifies requirements for conventional surface water treatment plants used in public water systems. It is intended to be applied in conjunction with rules R309-500[204] through R309-550[211]. Collectively, these rules govern the design, construction, operation and maintenance of public drinking water system facilities. These rules are intended to assure that such facilities are reliably capable of supplying adequate quantities of water which consistently meet applicable drinking water quality requirements and do not pose a threat to general public health.

R309-525[206]-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code [Annotated] and in accordance with 63-46a of the same, known as the Administrative Rulemaking Act.

R309-525[206]-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110[200] but may be further clarified herein.

R309-525[206]-4. General.

(1) Treatment plants used for the purification of surface water supplies or ground water supplies under direct influence of surface water must conform to the requirements given herein. The plants shall have, as a minimum, facilities for flash mixing of coagulant chemicals, flocculation, sedimentation, filtration and disinfection.

(2) The overall design of a water treatment facility must be carefully examined to assure the compatibility of all devices and processes. The design of treatment processes and devices shall depend on an evaluation of the nature and quality of the particular water to be treated. The combined unit processes shall produce water meeting all established drinking water standards as given in R309-103.

(3) Direct filtration may be acceptable and rules governing this method are given in R309-530[207]-5.

(4) Refer to R309-530[207]-9 for policy with regards to novel water treatment equipment or techniques which may depart from the requirements outlined herein.

R309-525[206]-5. Plant Capacity and Number of Treatment Trains.

(1) A determination of the required plant capacity and the required number of treatment trains shall be made after consultation with the Division. Ordinarily, a minimum of two units each for flocculation, sedimentation and filtration must be provided. The design shall provide for parallel or series operation of the clarification stages. Flash mix shall be designed and operated to provide a minimum velocity gradient of 750 fps/ft. Mixing time shall be less than thirty seconds. The treatment plant shall be

designed to meet the anticipated "peak day demand" of the system being served when the treatment plant is the system's sole source. When other sources are available to the system, this requirement may be relaxed.

(2) The degree of "back-up" required in a water treatment plant will vary with the number of connections to be served, the availability of other acceptable sources of water, and the ability to control water consumption. Thus, when other sources are available to the system, the requirements of R309-525[206]-7 (Plant Reliability) may also be relaxed. The Division shall be consulted in this regard prior to plant design.

R309-525[206]-6. Plant Siting.

Plants must be sited with due regard for earthquake, flood, and fire hazard. Assistance in this matter is available from the Utah Geologic Survey. The Division shall be consulted regarding site selection prior to the preparation of engineering plans and specifications.

R309-525[206]-7. Plant Reliability.

Plants designed for processing surface water or ground water under direct influence of surface water shall be designed to meet present and future water demands and assure reliable operation at all times. To help assure proper, uninterrupted operation:

- (1) A manual override shall be provided for any automatic controls. Highly sophisticated automation may put proper maintenance beyond the capability of the plant operator, leading to equipment breakdowns or expensive servicing. Adequate funding must be assured for maintenance of automatic equipment.
- (2) Main switch electrical controls shall be located above grade, in areas not subject to flooding.
- (3) Plants shall be operated by qualified personnel approved by the Executive Secretary. As a minimum, the treatment plant manager is required to be certified in accordance with R309-300[301] at the grade of the waterworks system with an appropriate unrestricted Utah Operator's Certificate.
- (4) The plant shall be constructed to permit units to be taken out of service without disrupting operation, and with drains or pumps sized to allow dewatering in a reasonable period of time.
- (5) The plant shall have standby power available to permit operation of essential functions during power outages.
- (6) The plant shall be provided with backup equipment or necessary spare parts for all critical items.
- (7) Individual components critical to the operation of a treatment plant shall be provided with anchorage to secure the components from loss due to an earthquake event.

R309-525[206]-8. Color Coding and Pipe Marking.

The piping in water treatment plants shall be color coded for identification. The following table contains color schemes recommended by the Division. Identification of the direction of flow and the contained liquid shall also be made on the pipe.

TABLE 525[206]-1

Recommended Color Scheme for Piping	
Water Lines	
Raw	Olive Green
Settled or Clarified	Aquamarine
Finished	Dark Blue

Chemical Lines	
Alum	Orange
Ammonia	White
Carbon Slurry	Black
Chlorine (Gas and Solution)	Yellow
Fluoride	Light Blue with Red Band
Lime Slurry	Light Green
Potassium Permanganate	Violet
Sulfur Dioxide	Light Green with Yellow Band
Waste Lines	
Backwash Waste	Light Brown
Sludge	Dark Brown
Sewer (Sanitary or Other)	Dark Gray
Other	
Compressed Air	Dark Green
Gas	Red
Other Lines	Light Gray

R309-525[206]-9. Diversion Structures and Pretreatment.

Refer to R309-515[204]-5(5) for diversion structure design.

R309-525[206]-10. Presedimentation.

Waters containing, heavy grit, sand, gravel, leaves, debris, or a large volume of sediments may require pretreatment, usually sedimentation, with or without the addition of coagulation chemicals.

- (1) Presedimentation basins shall be equipped for efficient sludge removal.
- (2) Incoming water shall be dispersed across the full width of the line of travel as efficiently as practical. Short-circuiting shall be minimized.
- (3) Provisions for bypassing presedimentation basins shall be included.

R309-525[206]-11. Chemical Addition.

- (1) Goals.
 - Chemicals used in the treatment of surface water shall achieve the following:
 - (a) Primary coagulant chemicals shall be utilized to permit the formation of a floc,
 - (b) Disinfectants shall be added to raw and/or treated water.
- (2) Application Criteria.
 - In achieving these goals the chemical(s) shall be applied to the water:
 - (a) To assure maximum control and flexibility of treatment,
 - (b) To assure maximum safety to consumer and operators,
 - (c) To prevent backflow or back-siphonage of chemical solutions to finished water systems.
 - (d) With appropriate spacing of chemical feed to eliminate any interference between chemicals.
 - (3) Typical Chemical Doses.
 - Chemical doses shall be estimated for each treatment plant to be designed. "Jar tests" shall be conducted on representative raw water samples to determine anticipated doses.
- (4) Information Required for Review.
 - With respect to chemical applications, a submittal for Division review shall include:
 - (a) Descriptions of feed equipment, including maximum and minimum feed rates,
 - (b) Location of feeders, piping layout and points of application,

- (c) Chemical storage and handling facilities,
- (d) Specifications for chemicals to be used,
- (e) Operating and control procedures including proposed application rates,
- (f) Descriptions of testing equipment and procedures, and
- (g) Results of chemical, physical, biological and other tests performed as necessary to define the optimum chemical treatment.

(5) Quality of Chemicals.

All chemicals added to water being treated for use in a public water system for human consumption shall comply with ANSI/NSF Standard 60. Evidence for this requirement shall be met if the chemical shipping container labels or material safety data sheets include:

(a) Chemical name, purity and concentrations, Supplier name and address, and

(b) Labeling indicating compliance with ANSI/NSF Standard 60.

(6) Storage, Safe Handling and Ventilation of Chemicals.

All requirements of the Utah Occupational Safety and Health Act (UOSHA) for storage, safe handling and ventilation of chemicals shall apply to public drinking water facilities. The designer shall incorporate all applicable UOSHA standards into the facility design, however, review of facility plans by the Division of Drinking Water under this Rule shall be limited to the following requirements:

(a) Storage of Chemicals.

(i) Space shall be provided for:

- (A) An adequate supply of chemicals,
- (B) Convenient and efficient handling of chemicals,
- (C) Dry storage conditions.

(ii) Storage tanks and pipelines for liquid chemicals shall be specific to the chemicals and not for alternates.

(iii) Chemicals shall be stored in covered or unopened shipping containers, unless the chemical is transferred into a covered storage unit.

(iv) Liquid chemical storage tanks must:

- (A) Have a liquid level indicator, and
- (B) Have an overflow and a receiving basin or drain capable of receiving accidental spills or overflows, and meeting all requirements of R309-525[206]-23, and

(C) Be equipped with an inverted "J" air vent.

(v) Acids shall be kept in closed acid-resistant shipping containers or storage units.

(b) Safe Handling.

(i) Material Safety Data Sheets for all chemicals utilized shall be kept and maintained in prominent display and be easily accessed by operators.

(ii) Provisions shall be made for disposing of empty bags, drums or barrels by an acceptable procedure which will minimize operator exposure to dusts.

(iii) Provisions shall be made for measuring quantities of chemicals used to prepare feed solutions.

(c) Dust Control and Ventilation.

Adequate provision shall be made for dust control and ventilation.

(7) Feeder Design, Location and Control.

(a) General Feeder Design.

General equipment design, location and control shall be such that:

(i) feeders shall supply, at all times, the necessary amounts of chemicals at an accurately controlled rate, throughout the anticipated range of feed,

(ii) chemical-contact materials and surfaces are resistant to the aggressiveness of the chemicals,

(iii) corrosive chemicals are introduced in a manner to minimize potential for corrosion,

(iv) chemicals that are incompatible are not fed, stored or handled together.

(v) all chemicals are conducted from the feeder to the point of application in separate conduits,

(vi) spare parts are available for all feeders to replace parts which are subject to wear and damage,

(vii) chemical feeders are as near as practical to the feed point,

(viii) chemical feeders and pumps operate at no lower than 20 percent of the feed range,

(ix) chemicals are fed by gravity where practical,

(x) be readily accessible for servicing, repair, and observation.

(b) Chemical Feed Equipment.

Where chemical feed is necessary for the protection of the consumer, such as disinfection, coagulation or other essential processes:

(i) a minimum of two feeders, one active and one standby, shall be provided for each chemical,

(ii) the standby unit or a combination of units of sufficient capacity shall be available to replace the largest unit during shut-downs,

(iii) where a booster pump is required, duplicate equipment shall be provided and, when necessary, standby power,

(iv) a separate feeder shall be used for each non-compatible chemical applied where a feed pump is required, and

(v) spare parts shall be available for all feeders to replace parts which are subject to wear and damage.

(c) Dry Chemical Feeders.

Dry chemical feeders shall:

(i) measure feed rate of chemicals volumetrically or gravimetrically, and

(ii) provide adequate solution water and agitation of the chemical in the solution tank.

(d) Feed Rate Control.

(i) Feeders may be manually or automatically controlled, with automatic controls being designed to allow override by manual controls.

(ii) Chemical feed rates shall be proportional to flows.

(iii) A means to measure water flow rate shall be provided.

(iv) Provisions shall be made for measuring the quantities of chemicals used.

(v) Weighing scales:

(A) shall be provided for weighing cylinders at all plants using chlorine gas,

(B) may be required for fluoride solution feed, where applicable,

(C) shall be provided for volumetric dry chemical feeders, and

(D) shall be accurate to measure increments of 0.5 percent of scale capacity.

(8) Feeder Appurtenances.

(a) Liquid Chemical Solution Pumps.

Positive displacement type solution feed pumps shall be used to feed liquid chemicals, but shall not be used to feed chemical

slurries. Pumps must be sized to match or exceed maximum head conditions found at the point of injection. All liquid chemical feeders shall be provided with devices approved by the Utah Plumbing Code which will prevent the siphoning of liquid chemical through the pump.

(b) Solution Tanks.

(i) A means consistent with the nature of the chemical solution shall be provided in a solution tank to maintain a uniform strength of solution. Continuous agitation shall be provided to maintain slurries in suspension.

(ii) Means shall be provided to measure the solution level in the tank.

(iii) Chemical solutions shall be kept covered. Large tanks with access openings shall have the openings curbed and fitted with tight overhanging covers.

(iv) Subsurface locations are discouraged, but when used for solution tanks shall:

(A) be free from sources of possible contamination, and

(B) assure positive drainage for ground waters, accumulated water, chemical spills and overflows.

(v) Overflow pipes, when provided, shall:

(A) have a free fall discharge, and

(B) be located where noticeable.

(vi) Acid storage tanks shall be vented to the outside atmosphere, but not through vents in common with day tanks.

(vii) Each tank shall be provided with a valved drain, protected against backflow in accordance with R309-~~525~~[206]-11(10)(b) and R309-~~525~~[206]-11(10)(c).

(viii) Solution tanks shall be located and protective curbing provided so that chemicals from equipment failure, spillage or accidental drainage shall not enter the water in conduits, treatment or storage basins.

(ix) When polymers are used, storage tanks shall be located away from heat sources and direct sunlight.

(c) Day Tanks.

(i) Day tanks shall be provided where dilution of liquid chemical is required prior to feeding.

(ii) Day tanks shall meet all the requirements of R309-~~525~~[206]-11(9)(b).

(iii) Certain chemicals, such as polymers, become unstable after hydration, therefore, day tanks shall hold no more than a thirty hour supply unless manufacturer's recommendations allow for longer periods.

(iv) Day tanks shall be scale-mounted, or have a calibrated gauge painted or mounted on the side if liquid levels cannot be observed in a gauge tube or through translucent sidewalls of the tank. In opaque tanks, a gauge rod extending above a referenced point at the top of the tank, attached to a float may be used. The ratio of the cross-sectional area of the tank to its height must be such that unit readings are meaningful in relation to the total amount of chemical fed during a day.

(v) Hand pumps may be provided for transfer from a carboy or drum. A top rack may be used to permit withdrawal into a bucket from a spigot. Where motor-driven transfer pumps are provided a liquid level limit switch and an overflow from the day tank, which will drain by gravity back into the bulk storage tank, must be provided.

(vi) A means which is consistent with the nature of the chemical solution shall be provided to maintain uniform strength of

solution in a day tank. continuous agitation shall be provided to maintain chemical slurries in suspension.

(vii) Tanks shall be properly labeled to designate the chemical contained.

(d) Feed Lines.

(i) Feed lines shall be as short as possible in length of run, and be:

(A) of durable, corrosion resistant material,

(B) easily accessible throughout the entire length,

(C) protected against freezing, and

(D) readily cleanable.

(ii) Feed lines shall slope upward from the chemical source to the feeder when conveying gases.

(iii) Lines shall be designed with due consideration of scale forming or solids depositing properties of the water, chemical, solution or mixture conveyed.

(9) Make up Water Supply and Protection.

(a) In Plant Water Supply.

In plant water supply shall be:

(i) Ample in supply, adequate in pressure, and of a quality equal to or better than the water at the point of application.

(ii) Provided with means for measurement when preparing specific solution concentrations by dilution.

(iii) Properly protected against backflow.

(b) Cross-Connection Control.

Cross-connection control shall be provided to assure that:

(i) The make-up waterlines discharging to solution tanks shall be properly protected from backflow as required by the Utah Plumbing Code.

(ii) Liquid chemical solutions cannot be siphoned through solution feeders into the process units as required in R309-~~525~~-~~11~~[~~108~~-8](9)(c).

(iii) No direct connection exists between any sewer and the drain or overflow from the feeder, solution chamber or tank by providing that all pipes terminate at least six inches or two pipe diameters, whichever is greater, above the overflow rim of a receiving sump, conduit or waste receptacle.

(iv) Pre- and post-chlorination systems must be independent to prevent possible siphoning of partially treated water into the clear well. The water supply to each eductor shall have a separate shut-off valve. No master shut off valve will be allowed.

(c) Liquid Chemical Feeders, Siphon Control.

Liquid chemical feeders shall be such that chemical solutions cannot be siphoned into the process units, by:

(i) Assuring positive pressure at the point of discharge,

(ii) Providing vacuum relief,

(iii) Providing a suitable air gap, or

(iv) Other suitable means or combinations as necessary.

(10) Operator Safety.

Design of the plant shall be in accordance with the Utah Occupational Safety and Health Act (UOSHA). The designer and public water system management are responsible to see that they incorporate applicable UOSHA standards into the facility design and operation. Review of facility plans by the Division shall be limited to the following recommendations:

(a) Floor surfaces should be smooth and impervious, slip-proof and well drained,

(b) At least one pair of rubber gloves, a dust respirator of a type certified by the National Institute of Occupational Safety and

Health (NIOSH) for toxic dusts, an apron or other protective clothing and goggles or face mask should be provided for each operator. A deluge shower and/or eye washing device should be installed where strong acids and alkalis are used or stored.

(c) A water holding tank that will allow water to reach room temperature should be installed in the water line feeding the deluge shower and eye washing device. Other methods of water tempering may be available.

(d) Adequate ventilation should be provided.

(11) Design for Specific Chemicals.

Design of the plant shall be in accordance with the Utah Occupational Safety and Health Act (UOSHA). The designer and public water system management are responsible to see that they incorporate applicable UOSHA standards into the facility design and operation. Review of facility plans by the Division shall be limited to the following recommendations:

Acids and Caustics.

(i) Acids and caustics should be kept in closed corrosion-resistant shipping containers or storage units.

(ii) Acids and caustics should not be handled in open vessels, but should be pumped in undiluted form from original containers through suitable hose, to the point of treatment or to a covered day tank.

Sodium Chlorite for Chlorine Dioxide Generation.

Proposals for the storage and use of sodium chlorite should be approved by the Executive Secretary prior to the preparation of final plans and specifications. Provisions should be made for proper storage and handling of sodium chlorite to eliminate any danger of explosion.

(i) Sodium Chlorite Storage: (A) Sodium chlorite should be stored by itself in a separate room and preferably should be stored in an outside building detached from the water treatment facility. It should be stored away from organic materials which would react violently with sodium chlorite; (B) The storage structures should be constructed of noncombustible materials; (C) If the storage structure is to be located in a area where a fire may occur, water should be available to keep the sodium chlorite area sufficiently cool to prevent decomposition from heat and resultant potential explosive conditions.

(ii) Sodium Chlorite Handling: (A) Care should be taken to prevent spillage; (B) An emergency plan of operation should be available for the clean up of any spillage; (C) Storage drums should be thoroughly flushed prior to recycling or disposal.

(iii) Sodium Chlorite Feeders: (A) Positive displacement feeders should be provided; (B) Tubing for conveying sodium chlorite or chlorine dioxide solutions should be Type 1 PVC, polyethylene or materials recommended by the manufacturer; (C) Feed lines should be installed in a manner to prevent formation of gas pockets and should terminate at a point of positive pressure; (D) Check valves should be provided to prevent the backflow of chlorine into the sodium chlorite line.

R309-525[206]-12. Mixing.

(1) Flash Mix.

(a) Equipment - Mechanical, in-line or jet mixing devices shall be used.

(b) Mixing - All devices used in rapid mixing shall be capable of imparting a minimum velocity gradient (G) of at least 750 fps per foot. Mixing time shall be less than thirty seconds.

(c) Location - The flash mix and flocculation basins shall be as close together as possible.

(d) Introduction of chemicals - Primary coagulant chemicals shall be added at the point of maximum turbulence within the flash mix unit. Where in-line mixing devices are used chemical injection should be at the most appropriate upstream point.

(2) Flocculation.

(a) Basin design.

Inlet and outlet design shall prevent short-circuiting and destruction of floc. A drain or pumps shall be provided to handle dewatering and sludge removal.

(b) Detention.

The flow-through velocity shall not be less than 0.5 feet per minute nor greater than 1.5 feet per minute with a detention time for floc formation of at least 30 minutes.

(c) Equipment.

Agitators shall be driven by variable speed drives with the peripheral speed of paddles ranging from 0.5 fps to 2.0 fps. Equipment shall be capable of imparting a velocity gradient (G) between 25 fps per foot and 80 fps per foot to the water treated. Compartmentalized tapered energy flocculation concept may also be used in which G tapers from 100 fps to 10 fps per foot.

(d) Hydraulic flocculation.

Hydraulic flocculation may be permitted and shall be reviewed on a case by case basis. The unit must yield a G value equivalent to that required by b and c above.

(e) Piping.

Flocculation and sedimentation basins shall be as close as possible. The velocity of flocculated water through pipes or conduits to settling basins shall not be less than 0.5 fps nor greater than 1.5 fps. Allowance must be made to minimize turbulence at bends and changes in direction.

(f) Other designs.

Baffling may be used to provide for flocculation in small plants only after consultation with the Division. The design shall be such that the velocities and flows noted above will be maintained.

(g) Visible floc.

The flocculation unit shall be capable of producing a visible, settleable floc.

R309-525[206]-13. Sedimentation.

(1) General Design Requirements.

Sedimentation shall follow flocculation. The detention time for effective clarification is dependent upon a number of factors related to basin design and the nature of the raw water. The following criteria apply to conventional sedimentation units:

(a) Inlet devices.

Inlets shall be designed to distribute the water equally and at uniform velocities. Open ports, submerged ports, or similar entrance arrangements are required. A baffle shall be constructed across the basin close to the inlet end and shall project several feet below the water surface to dissipate inlet velocities and provide uniform flows across the basin.

(b) Outlet devices.

Outlet devices shall be designed to maintain velocities suitable for settling in the basin and to minimize short-circuiting. The use of submerged orifices is recommended in order to provide a volume

above the orifices for storage when there are fluctuations in the flow.

(c) Emergency Overflow.

An overflow weir (or pipe) shall be installed which will establish the maximum water level desired on top of the filters. It shall discharge by gravity with a free fall to a location where the discharge will be visible.

(d) Sludge Removal.

Sludge removal design shall provide that:

(i) sludge pipes shall be not less than three inches in diameter and arranged to facilitate cleaning,

(ii) entrance to sludge withdrawal piping shall prevent clogging,

(iii) valves shall be located outside the basin for accessibility, and

(iv) the operator may observe and sample sludge being withdrawn from the unit.

(v) Sludge collection shall be accomplished by mechanical means.

(e) Drainage.

Basins shall be provided with a means for dewatering. Basin bottoms shall slope toward the drain not less than one foot in 12 feet where mechanical sludge collection equipment is not provided.

(f) Flushing lines.

Flushing lines or hydrants shall be provided and shall be equipped with backflow prevention devices acceptable to the Executive Secretary.

(g) Safety.

Appropriate safety devices shall be included as required by the Occupational Safety and Health Act (OSHA).

(h) Removal of floating material.

Provision shall be made for the periodic removal of floating material.

(2) Sedimentation Without Tube Settlers.

If tube settling equipment is not used within settling basins, the following requirements apply:

(a) Detention Time.

A minimum of four hours of detention time shall be provided. Reduced sedimentation time may be approved when equivalent effective settling is demonstrated or multimedia filtration is employed.

(b) Weir Loading.

The rate of flow over the outlet weir shall not exceed 20,000 gallons per day per foot of weir length. Where submerged orifices are used as an alternate for overflow weirs they shall not be lower than three feet below the water surface when the flow rates are equivalent to weir loading.

(c) Velocity.

The velocity through settling basins shall not exceed 0.5 feet per minute. The basins shall be designed to minimize short-circuiting. Fixed or adjustable baffles shall be provided as necessary to achieve the maximum potential for clarification.

(d) Depth.

The depth of the sedimentation basin shall be designed for optimum removal.

(3) Sedimentation With Tube Settlers.

Proposals for settler unit clarification shall be approved by the Executive Secretary prior to the preparation of final plans and specifications.

(a) Inlet and outlet design shall be such to maintain velocities suitable for settling in the basin and to minimize short circuiting.

(b) Flushing lines shall be provided to facilitate maintenance and be properly protected against backflow or back siphonage. Drain and sludge piping from the settler units shall be sized to facilitate a quick flush of the settler units and to prevent flooding other portions of the plant.

(c) Although most units will be located within a plant, design of outdoor installations shall provide sufficient freeboard above the top of settlers to prevent freezing in the units.

(d) The design application rate shall be a maximum rate of 2 gal/sq.ft./min of cross-sectional area (based on 24-inch long 60 degree tubes or 39.5-inch long 7.5 degree tubes), unless higher rates are successfully shown through pilot plant or in-plant demonstration studies.

R309-~~525~~[206]-14. Solids Contact Units.

(1) General.

Solids contact units are generally acceptable for combined softening and clarification where water characteristics, especially temperature, do not fluctuate rapidly, flow rates are uniform and operation is continuous. Before such units are considered as clarifiers without softening, specific approval of the Executive Secretary shall be obtained. A minimum of two units are required for surface water treatment.

(2) Installation of Equipment

The design engineer shall see that a representative of the manufacturer is present at the time of initial start-up operation to assure that the units are operating properly.

(3) Operation of Equipment.

The following shall be provided for plant operation:

(a) a complete outfit of tools and accessories,

(b) necessary laboratory equipment, and

(c) adequate piping with suitable sampling taps so located as to permit the collection of samples of water from critical portions of the units.

(4) Chemical feed.

Chemicals shall be applied at such points and by such means as to insure satisfactory mixing of the chemicals with the water.

(5) Mixing.

A flash mix device or chamber ahead of solids contact units may be required to assure proper mixing of the chemicals applied. Mixing devices employed shall be so constructed as to:

(a) provide good mixing of the raw water with previously formed sludge particles, and

(b) prevent deposition of solids in the mixing zone.

(6) Flocculation.

Flocculation equipment:

(a) shall be adjustable (speed and/or pitch),

(b) shall provide for coagulation in a separate chamber or baffled zone within the unit, and

(c) shall provide the flocculation and mixing period to be not less than 30 minutes.

(7) Sludge concentrators.

(a) The equipment shall provide either internal or external concentrators in order to obtain a concentrated sludge with a minimum of waste water.

(b) Large basins shall have at least two sumps for collecting sludge with one sump located in the central flocculation zone.

(8) Sludge removal.

Sludge removal design shall provide that:

(a) sludge pipes shall be not less than three inches in diameter and so arranged as to facilitate cleaning,

(b) the entrance to the sludge withdrawal piping shall prevent clogging,

(c) valves shall be located outside the tank for accessibility, and

(d) the operator may observe and sample sludge being withdrawn from the unit.

(9) Cross-connections.

(a) Blow-off outlets and drains shall terminate and discharge at places satisfactory to the Executive Secretary.

(b) Cross-connection control must be included for the finished drinking water lines used to back flush the sludge lines.

(10) Detention period.

The detention time shall be established on the basis of the raw water characteristics and other local conditions that affect the operation of the unit. Based on design flow rates, the detention time shall be:

(a) two to four hours for suspended solids contact clarifiers and softeners treating surface water, and

(b) one to two hours for suspended solids contact softeners treating only ground water.

(11) Suspended slurry concentrate.

Softening units shall be designed so that continuous slurry concentrates of one percent or more, by weight, can be satisfactorily maintained.

(12) Water losses.

(a) Units shall be provided with suitable controls for sludge withdrawal.

(b) Total water losses shall not exceed:

(i) five percent for clarifiers,

(ii) three percent for softening units.

(c) Solids concentration of sludge bled to waste shall be:

(i) three percent by weight for clarifiers,

(ii) five percent by weight for softeners.

(13) Weirs or orifices.

The units shall be equipped with either overflow weirs or orifices constructed so that water at the surface of the unit does not travel over 10 feet horizontally to the collection trough.

(a) Weirs shall be adjustable, and at least equivalent in length to the perimeter of the basin.

(b) Weir loading shall not exceed:

(i) 10 gpm per foot of weir length for units used for clarifiers

(ii) 20 gpm per foot of weir length for units used for softeners.

(c) Where orifices are used the loading rates per foot of launderer shall be equivalent to weir loadings. Either shall produce uniform rising rates over the entire area of the tank.

(14) Upflow rates.

Upflow rates shall not exceed:

(a) 1.0 gpm/sf at the sludge separation line for units used for clarifiers,

(b) 1.75 gpm/sf at the slurry separation line for units used as softeners.

R309-525[206]-15. Filtration.

(1) General.

Filters may be composed of one or more media layers. Mono-media filters are relatively uniform throughout their depth. Dual or multi-layer beds of filter material are so designed that water being filtered first encounters coarse material, and progressively finer material as it travels through the bed.

(2) Rate of Filtration.

(a) The rate of filtration shall be determined through consideration of such factors as raw water quality, degree of pretreatment provided, filter media, water quality control parameters, competency of operating personnel, and other factors as determined by the Executive Secretary. Generally, higher filter rates can be assigned for the dual or multi-media filter than for a single media filter because the former is more resistant to filter breakthrough.

(b) The filter rate shall be proposed and justified by the designing engineer to the satisfaction of the Executive Secretary prior to the preparation of final plans and specifications.

(c) The use of dual or multi-media filters may allow a reduction of sedimentation detention time (see R309-525[206]-13(2)(a)) due to their increased ability to store sludge.

(d) Filter rates assigned by the Executive Secretary must never be exceeded, even during backwash periods.

(e) The use of filter types other than conventional rapid sand gravity filters must receive written approval from the Executive Secretary prior to the preparation of final plans and specifications.

(3) Number of Filters Required.

At least two filter units shall be provided. Where only two filter units are provided, each shall be capable of meeting the plant design capacity (normally the projected peak day demand) at the approved filtration rate. Where more than two filter units are provided, filters shall be capable of meeting the plant design capacity at the approved filtration rate with one filter removed from service. Refer to R309-525[206]-5 for situations where these requirements may be relaxed.

(4) Media Design.

R309-525-15(4)[206-4](a) through R309-525-15(4)[206-4](e), which follow, give requirements for filter media design. These requirements are considered minimum and may be made more stringent if deemed appropriate by the Executive Secretary.

(a) Mono-media, Rapid Rate Gravity Filters.

The allowable maximum filtration rate for a silica sand, mono-media filter is three gpm/sf. This type of filter is composed of clean silica sand having an effective size of 0.35 mm to 0.65 mm and having a uniformity coefficient less than 1.7. The total bed thickness must not be less than 24 inches nor generally more than 30 inches.

(b) Dual Media, Rapid Rate Gravity Filters.

The following applies to all dual media filters:

(i) Total depth of filter bed shall not be less than 24 inches nor generally more than 30 inches.

(ii) All materials used to make up the filter bed shall be of such particle size and density that they will be effectively washed at backwash rates between 15 and 20 gpm/sf. They must settle to reconstitute the bed essentially in the original layers upon completion of backwashing.

(iii) The bottom layer must be at least ten inches thick and consist of a material having an effective size no greater than 0.45 mm and a uniformity coefficient not greater than 1.5.

(iv) The top layer shall consist of clean crushed anthracite coal having an effective size of 0.45 mm to 1.2 mm, and a uniformity coefficient not greater than 1.5.

(v) Dual media filters will be assigned a filter rate up to six gpm/sf. Generally if the bottom fine layer consists of a material having an effective size of 0.35 mm or less, a filtration rate of six gpm/sf can be assigned.

(vi) Each dual media filter must be provided with equipment which shall continuously monitor turbidity in the filtered water. The equipment shall be so designed to initiate automatic backwash if the filter effluent turbidity exceeds 0.5 NTU. If the filter turbidity exceeds five NTU, filter shutdown is required. In plants attended part-time, this shutdown must be accomplished automatically and shall be accompanied by an alarm. In plants having full-time operators, a five NTU condition need only activate an alarm. Filter shutdown may then be accomplished by the operator.

(c) Tri-Media, Rapid Rate Gravity Filters.

The following applies to all Tri-media filters:

(i) Total depth of filter bed shall not be less than 24 inches nor generally more than 30 inches.

(ii) All materials used to make up the filter bed shall be of such particle size and density that they will be effectively washed at backwash rates between 15 and 20 gpm/sf. They must settle to reconstitute the bed to the normal gradation of coarse to fine in the direction of flow upon completion of backwashing.

(iii) The bottom layer must be at least four inches thick and consist of a material having an effective size no greater than 0.45 mm and uniformity coefficient not greater than 2.2. The bottom layer thickness may be reduced to three inches if it consists of a material having an effective size no greater than 0.25 mm and a uniformity coefficient not greater than 2.2.

(iv) The middle layer must consist of silica sand having an effective size of 0.35 mm to 0.8 mm, and a uniformity coefficient not greater than 1.8.

(v) The top layer shall consist of clean crushed anthracite coal having an effective size of 0.45 mm to 1.2 mm, and a uniformity coefficient not greater than 1.85.

(vi) Tri-media filters will be assigned a filter rate up to 6 gpm/sf. Generally, if the bottom fine layer consists of a material having an effective size of 0.35 mm or less, a filtration rate of six gpm/sf can be assigned.

(vii) Each Tri-media filter must be provided with equipment which shall continuously monitor turbidity in the filtered water. The equipment shall be so designed to initiate automatic backwash if the effluent turbidity exceeds 0.5 NTU. If the filter turbidity exceeds five NTU, filter shutdown is required. In plants attended part-time, this shutdown must be accomplished automatically and shall be accompanied by an alarm. In plants having full-time operators, a five NTU condition need only activate an alarm. Filter shutdown may then be accomplished by the operator.

(d) Granulated Activated Carbon (GAC).

Use of granular activated carbon media shall receive the prior approval of the Executive Secretary, and must meet the basic specifications for filter material as given above, and:

(i) There shall be provision for adding a disinfectant to achieve a suitable residual in the water following the filters and prior to distribution,

(ii) There shall be a means for periodic treatment of filter material for control of biological or other growths,

(iii) Facilities for carbon regeneration or replacement must be provided.

(e) Other Media Compositions and Configurations.

Filters consisting of materials or configurations not prescribed in this section will be considered on experimental data or available operation experience.

(5) Support Media, Filter Bottoms and Strainer Systems.

Care must be taken to insure that filter media, support media, filter bottoms and strainer systems are compatible and will give satisfactory service at all times.

(a) Support Media.

The design of support media will vary with the configuration of the filtering media and the filter bottom. Thus, support media and/or proprietary filter bottoms shall be reviewed on a case-by-case basis.

(b) Filter Bottoms and Strainer Systems.

(i) The design of manifold type collection systems shall:

(A) Minimize loss of head in the manifold and laterals,

(B) Assure even distribution of washwater and even rate of filtration over the entire area of the filter,

(C) Provide a ratio of the area of the final openings of the strainer system to the area of the filter of about 0.003,

(D) Provide the total cross-sectional area of the laterals at about twice the total area of the final openings,

(E) Provide the cross-sectional area of the manifold at 1.5 to 2 times the total area of the laterals.

(ii) Departures from these standards may be acceptable for high rate filter and for proprietary bottoms.

(iii) Porous plate bottoms shall not be used where calcium carbonate, iron or manganese may clog them or with waters softened by lime.

(6) Structural Details and Hydraulics.

The filter structure shall be so designed as to provide for:

(a) Vertical walls within the filter,

(b) No protrusion of the filter walls into the filter media,

(c) Cover by superstructure,

(d) Head room to permit normal inspection and operation,

(e) Minimum water depth over the surface of the filter media of three feet, unless an exception is granted by the Executive Secretary,

(f) Maximum water depth above the filter media shall not exceed 12 feet,

(g) Trapped effluent to prevent backflow of air to the bottom of the filters,

(h) Prevention of floor drainage to enter onto the filter by installation of a minimum four inch curb around the filters,

(i) Prevention of flooding by providing an overflow or other means of control,

(j) Maximum velocity of treated water in pipe and conduits to filters of two fps,

(k) Cleanouts and straight alignment for influent pipes or conduits where solids loading is heavy or following lime-soda softening,

(l) Washwater drain capacity to carry maximum flow,

(m) Walkways around filters, to be not less than 24 inches wide,

(n) Safety handrails or walls around filter areas adjacent to normal walkways,

(o) No common wall between filtered and unfiltered water shall exist. This requirement may be waived by the Executive Secretary for small "package" type plants using metal tanks of sufficient thickness,

(p) Filtration to waste for each filter.

(7) Backwash.

(a) Water Backwash Without Air.

Water backwash systems shall be designed so that backwash water is not recycled to the head of the treatment plant unless it has been settled, as a minimum. Furthermore, water backwash systems; including tanks, pumps and pipelines, shall:

(i) Provide a minimum backwash rate of 15 gpm/sf, consistent with water temperatures and the specific gravity of the filter media. The design shall provide for adequate backwash with minimum media loss. A reduced rate of 10 gpm/sf may be acceptable for full depth anthracite or granular activated carbon filters.

(ii) provide finished drinking water at the required rate by washwater tanks, a washwater pump, from the high service main, or a combination of these.

(iii) Permit the backwashing of any one filter for not less than 15 minutes.

(iv) Be capable of backwashing at least two filters, consecutively.

(v) Include a means of varying filter backwash rate and time.

(vi) Include a washwater regulator or valve on the main washwater line to obtain the desired rate of filter wash with washwater valves or the individual filters open wide.

(vii) Include a rate of flow indicator, preferably with a totalizer on the main washwater line, located so that it can be easily read by the operator during the washing process.

(viii) Be designed to prevent rapid changes in backwash water flow.

(ix) Use only finished drinking water.

(x) Have washwater pumps in duplicate unless an alternate means of obtaining washwater is available.

(xi) Perform in conjunction with "filter to waste" system to allow filter to stabilize before introduction into clearwell.

(b) Backwash with Air Scouring.

Air scouring can be considered in place of surface wash when:

(i) air flow for air scouring the filter must be 3 to 5 scfm/sf of filter area when the air is introduced in the underdrain; a lower air rate must be used when the air scour distribution system is placed above the underdrains,

(ii) a method for avoiding excessive loss of the filter media during backwashing must be provided,

(iii) air scouring must be followed by a fluidization wash sufficient to re-stratify the media,

(iv) air must be free from contamination,

(v) air scour distribution systems shall be placed below the media and supporting bed interface; if placed at the interface the air scour nozzles shall be designed to prevent media from clogging the nozzles or entering the air distribution system.

(vi) piping for the air distribution system shall not be flexible hose which will collapse when not under air pressure and shall not be a relatively soft material which may erode at the orifice opening with the passage of air at high velocity.

(vii) air delivery piping shall not pass down through the filter media nor shall there be any arrangement in the filter design which

would allow short circuiting between the applied unfiltered water and the filtered water,

(viii) consideration shall be given to maintenance and replacement of air delivery piping,

(ix) when air scour is provided the backwash water rate shall be variable and shall not exceed eight gpm/sf unless operating experience shows that a higher rate is necessary to remove scoured particles from filter surfaces.

(x) the filter underdrains shall be designed to accommodate air scour piping when the piping is installed in the underdrain, and

(xi) the provisions of Section R309-~~525~~[206]-15(7)(a) (Backwash) shall be followed.

(8) Surface Wash or Subsurface Wash.

Surface wash or subsurface wash facilities are required except for filters used exclusively for iron or manganese removal. Washing may be accomplished by a system of fixed nozzles or a revolving-type apparatus, provided:

(a) Provisions for water pressures of at least 45 psi,

(b) A properly installed vacuum breaker or other approved device to prevent back-siphonage if connected to a finished drinking water system,

(c) All washwater must be finished drinking water,

(d) Rate of flow of two gpm/sf of filter area with fixed nozzles or 0.5 gpm/sf with revolving arms.

(9) Washwater Troughs.

Washwater troughs shall be so designed to provide:

(a) The bottom elevation above the maximum level of expanded media during washing,

(b) A two inch freeboard at the maximum rate of wash,

(c) The top edge level and all edges of trough at the same elevation

(d) Spacing so that each trough serves the same number of square feet of filter areas,

(e) Maximum horizontal travel of suspended particles to reach the trough not to exceed three feet.

(10) Appurtenances.

(a) The following shall be provided for every filter:

(i) Sample taps or means to obtain samples from influent and effluent,

(ii) A gauge indicating loss of head,

(iii) A meter indicating rate-of-flow. A modified rate controller which limits the rate of filtration to a maximum rate may be used. However, equipment that simply maintains a constant water level on the filters is not acceptable, unless the rate of flow onto the filter is properly controlled,

(iv) A continuous turbidity monitoring device where the filter is to be loaded at a rate greater than three gpm/sf

(v) Provisions for draining the filter to waste with appropriate measures for backflow prevention (see R309-~~525~~[206]-23).

(i) Wall sleeves providing access to the filter interior at several locations for sampling or pressure sensing,

(ii) A 1.0 inch to 1.5 inch diameter pressure hose and storage rack at the operating floor for washing filter walls.

(11) Miscellaneous.

Roof drains shall not discharge into filters or basins and conduits preceding the filters.

R309-525[206]-16. In-Plant Finished Drinking Water Storage.

(1) General.

In addition to the following, the applicable design standards of R309-545[~~R309-111~~] shall be followed for plant storage.

(a) Backwash Water Tanks.

Backwash water tanks shall be sized, in conjunction with available pump units and finished water storage, to provide the backwash water required by R309-525[206]-15(7). Consideration shall be given to the backwashing of several filters in rapid succession.

(b) Clearwell.

Clearwell storage shall be sized, in conjunction with distribution system storage, to relieve the filters from having to follow fluctuations in water use.

(i) When finished water storage is used to provide the contact time for chlorine (see R309-520[205]-10(1)(f), especially subsection (f)(iv)), special attention must be given to size and baffling.

(ii) To ensure adequate chlorine contact time, sizing of the clearwell shall include extra volume to accommodate depletion of storage during the nighttime for intermittently operated filtration plants with automatic high service pumping from the clearwell during non-treatment hours.

(iii) An overflow and vent shall be provided.

(2) Adjacent Compartments.

Finished drinking water shall not be stored or conveyed in a compartment adjacent to unsafe water when the two compartments are separated by a single wall. The Executive Secretary may grant an exception to this requirement for small "package" treatment plants using metal tanks of sufficient wall thickness.

(3) Basins and Wet-Well.

Receiving basins and pump wet-wells for finished drinking water shall be designed as drinking water storage structures. (See Section R309-545[210])

R309-525[206]-17. Miscellaneous Plant Facilities.

(1) Laboratory.

Sufficient laboratory equipment shall be provided to assure proper operation and monitoring of the water plant. A list of required laboratory equipment is:

(a) one floc testing apparatus with illuminated base and variable speed stirrer,

(b) 10 each 1000 ml Griffin beakers (plastic is highly recommended over glass to prevent breakage),

(c) one 1000 ml graduated cylinder (plastic is highly recommended over glass to prevent breakage),

(d) pH test strips (6.0 to 8.5),

(e) five wide mouth 25 ml Mohr pipets,

(f) one triple beam, single pan or double pan balance with 0.1 g sensitivity and 2000 g capacity (using attachment weights),

(g) DPD chlorine test kit,

(h) bench-top turbidimeter,

(i) five each 1000 ml reagent bottles with caps,

(j) dish soap,

(k) brush (2 3/4 inch diameter by 5 inch),

(l) one platform scale 1/2 lb sensitivity, 100 lb capacity,

(m) book - Simplified Procedures for Water Examination, AWWA Manual M12

(2) Continuous Turbidity Monitoring and Recording Equipment.

Continuous turbidity monitoring and recording facilities shall be located as specified in R309-104-4.4.1a.

(3) Sanitary and Other Conveniences.

All treatment plants shall be provided with finished drinking water, lavatory and toilet facilities unless such facilities are otherwise conveniently available. Plumbing must conform to the Utah Plumbing Code and must be so installed to prevent contamination of a public water supply.

R309-525[206]-18. Sample Taps.

Sample taps shall be provided so that water samples can be obtained from appropriate locations in each unit operation of treatment. Taps shall be consistent with sampling needs and shall not be of the petcock type. Taps used for obtaining samples for bacteriological analysis shall be of the smooth-nosed type without interior or exterior threads, shall not be of the mixing type, and shall not have a screen, aerator, or other such appurtenance.

R309-525[206]-19. Operation and Maintenance Manuals.

Operation and maintenance manuals shall be prepared for the treatment plant and found to be acceptable by the Executive Secretary. The manuals shall be usable and easily understood. They shall describe normal operating procedures, maintenance procedures and emergency procedures.

R309-525[206]-20. Operator Instruction.

Provisions shall be made for operator instruction at the start-up of a plant.

R309-525[206]-21. Safety.

All facilities shall be designed and constructed with due regard for safety, comfort and convenience. As a minimum, all applicable requirements of Utah Occupational Safety and Health Act (UOSHA) must be adhered to.

R309-525[206]-22. Disinfection Prior To Use.

All pipes, tanks, and equipment which can convey or store finished drinking water shall be disinfected in accordance with the following AWWA procedures:

(1) C651-99[92] Disinfecting Water Mains

(2) C652-92 Disinfection of Water Storage Facilities

(3) C653-97[87] Disinfection of Water Treatment Plants

R309-525[206]-23. Disposal of Treatment Plant Waste.

Provisions must be made for proper disposal of water treatment plant waste such as sanitary, laboratory, sludge, and filter backwash water. All waste discharges and treatment facilities shall meet the requirements of the plumbing code, the Utah Department of Environmental Quality, the Utah Department of Health, and the United States Environmental Protection Agency, including the following:

(1) Rules for Onsite[~~Individual~~] Wastewater Disposal Systems, Utah Administrative Code R317-4[~~R312-201 through R312-215 and R312-250~~].

(2) Rules for Water Quality, Utah Administrative Code R317.

(3) Rules for Solid and Hazardous Waste, Utah Administrative Code R315.

In locating waste disposal facilities, due consideration shall be given to preventing potential contamination of a water supply as well as breach or damage due to environmental factors.

R309-525[206]-24. Other Considerations.

Consideration shall be given to the design requirements of other federal, state, and local regulatory agencies for items such as safety requirements, special designs for the handicapped, plumbing and electrical codes, construction in the flood plain, etc.

R309-525[206]-25. Operation and Maintenance.

(1) Water system operators must determine that all chemicals added to water intended for human consumption are suitable for drinking water use and comply with ANSI/NSF Standard 60.

(2) No chemicals or other substances may be added to public water supplies unless the chemical addition facilities and chemical type have been reviewed and approved by the Executive Secretary. The Executive Secretary shall be notified prior to the changing of primary coagulant type. The Executive Secretary may require documentation to verify that sufficient testing and analysis have been done. The primary coagulant may not be changed without prior approval from the Executive Secretary.

(3) During the operation of a conventional surface water treatment plant stable flow rates shall be maintained through the filters.

(4) All instrumentation needed to verify that treatment processes are sufficient shall be properly calibrated and maintained. As a minimum, this shall include turbidimeters.

KEY: drinking water, flocculation, sedimentation, filtration
[January 1, 1998]2001 19-4-104



Environmental Quality, Drinking Water
R309-207
(Changed to R309-530)
Facility Design and Operation:
Alternative Surface Water Treatment
Methods

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE No.: 23659
FILED: 04/16/2001, 11:03
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this rule is to specify requirements for alternative

surface water treatment methods. This change is primarily a re-numbering of Rule R309-207 to conform with a re-numbering scheme approved by the Drinking Water Board to allow for forthcoming rule changes mandated by the federal Safe Drinking Water Act (SDWA).

SUMMARY OF THE RULE OR CHANGE: This primarily is a re-numbering of existing Rule R309-207 with some minor corrections to bring clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--Because this is primarily a re-numbering of existing Rule R309-207, there will be no increased work load to staff nor any change to the State budget as a result of this proposed change.

❖LOCAL GOVERNMENTS: None--Because this is primarily a re-numbering of existing Rule R309-207, there will be no increased work load to staff nor any change to local government as a result of this proposed change.

❖OTHER PERSONS: None--Because this is primarily a re-numbering of existing Rule R309-207, there will be no increased work load to staff nor any change to other persons as a result of this proposed change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Because this rule change deals only with minor clarification and re-numbering of an existing rule there will be no additional cost to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The department agrees that the proposed rule change will not have any fiscal impact on public water systems or affiliated businesses such as engineering firms which provide services to these systems.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Drinking Water
Second Floor
150 North 1950 West
PO Box 144830
Salt Lake City, UT 84114-4830, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Michael B. Georgeson or William B. Birkes at the above address, by phone at (801) 536-4197 or (801) 536-4201, by FAX at (801) 536-4211, or by Internet E-mail at mgeorges@deq.state.ut.us or bbirkes@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: Kevin W. Brown, Director

R309. Environmental Quality, Drinking Water.
R309-530[207]. Facility Design and Operation: Alternative Surface Water Treatment Methods.
R309-530[207]-1. Purpose.

This rule specifies requirements for alternative surface water treatment methods. It is intended to be applied in conjunction with rules R309-500[204] through R309-550[244]. Collectively, these rules govern the design, construction, operation and maintenance of public drinking water system facilities. These rules are intended to assure that such facilities are reliably capable of supplying adequate quantities of water which consistently meet applicable drinking water quality requirements and do not pose a threat to general public health.

R309-530[207]-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code [Annotated] and in accordance with subsection 63-46a of the same, known as the Administrative Rulemaking Act.

R309-530[207]-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110[200] but may be further clarified herein.

R309-530[207]-4. General.

(1) Alternative Methods.

In addition to conventional surface water treatment method (i.e. coagulation, sedimentation and filtration as outlined in R309-525[206]), several alternative methods may also be suitable. They are: Direct Filtration; Slow Sand Filtration; Membrane Filtration; and Diatomaceous Earth Filtration.

(2) Incorporation of Other Rules.

For each process described in this section pertinent rules are given. The designer shall also incorporate the relevant rules given in other sections into the plans and specifications for any of these specialized treatment methods. Where applicable, the following topics shall be addressed:

- (a) Plant Siting (see R309-525[206]-6).
- (b) Pre-design Submittal (see R309-515[204]-5(2)).
- (c) Plant Reliability (see R309-525[206]-7).
- (d) Color Coding and Pipe Marking (see R309-525[206]-8).
- (e) Chemical Addition (see R309-525[206]-11).
- (f) Miscellaneous Plant Facilities (see R309-525[206]-17, particularly sub-section R309-525[206]-17(1), Laboratory).
- (g) Operation and Maintenance Manuals (see R309-525[206]-19).
- (h) Safety (see R309-525[206]-21).
- (i) Disposal of Treatment Plant Waste (see R309-525[206]-23).
- (j) Disinfection (see R309-520[205]).

R309-530[207]-5. Direct Filtration.

(1) Chemical Addition and Mixing.

Direct Filtration is conventional surface water treatment without the sedimentation process. Rules for Chemical Addition and Mixing shall be the same as found in sections R309-525[206]-11 and R309-525[206]-12.

(2) Source Water Quality.

Direct Filtration applies the destabilized colloids to the filter rather than removing the majority of the load through sedimentation. While this process represents considerable construction cost savings, the source water must have low average turbidity in order to provide reliable service without excessive backwash requirements. Source water with low average turbidity is generally only obtained from large capacity reservoirs.

(3) Design Requirements.

The following requirements shall apply to Direct Filtration plants:

(a) At least one year's record of source water turbidity, sampled at least once per week, shall be presented to the Executive Secretary. A Direct Filtration facility will only be permitted if the data shows that 75% of the measurements are below five (5) NTU. The Executive Secretary shall judge whether Direct Filtration is suitable given the quality of the proposed source water (see R309-515-5(2)(a)(ii)[204-5(2)(b)]).

(b) Pilot plant studies, acceptable to the Executive Secretary, shall be conducted prior to the preparation of final engineering plans.

(c) Requirements for flash mix and flocculation basin design are given in sub-sections R309-525[206]-12(1) and R309-525[206]-12(2).

(d) Chemical addition and mixing equipment shall be designed to be capable of providing a visible, but not necessarily settleable, floc.

(e) Surface wash, subsurface wash, or air scour shall be provided for the filters in accordance with sub-section R309-525[206]-15(7).

(f) A continuous monitoring turbidimeter shall be installed on each filter effluent line and shall be of a type with at least two alarm conditions capable of meeting the requirements of subsections R309-525[206]-15(4)(b)(vi) or R309-525[206]-15(4)(c)(vii). The combined plant effluent shall be equipped with a continuous turbidimeter having a chart recorder. Additional monitoring equipment to assist in control of the coagulant dose may be required (i.e. streaming current gauges, particle counters, etc.) if the plant cannot consistently meet the requirements of rule R309-103.

(g) In addition to the alarm conditions required above, the plant shall be designed and operated so that the plant will automatically shut down when a source water turbidity of 20 NTU lasts longer than three hours, or when the source water turbidity exceeds 30 NTU at any time.

(h) The plant design and land ownership surrounding the plant shall allow for the installation of conventional sedimentation basins. Sedimentation basins may be required if the Executive Secretary determines the plant is failing to meet minimum water quality or performance standards.

R309-530[207]-6. Slow Sand Filtration.

(1) Acceptability.

Slow sand filtration means a process involving passage of raw water through a bed of sand at low velocity resulting in substantial particle removal by physical and biological mechanisms. The acceptability of slow sand filters as a substitute for "conventional surface water treatment" facilities (detailed in R309-525[206]) shall be determined by the Executive Secretary based on suitability of the source water and demand characteristics of the system.

(2) Source Water Quality.

The Executive Secretary may impose design requirements in addition to those listed herein, in allowing this process. The following shall be considered, among other factors, in determining whether slow sand filtration will be acceptable:

(a) Source water turbidity must be low and consistent. Slow Sand Filtration shall be utilized only when the source waters have turbidity less than 50 NTU and color less than 30 units (see R309-515-5(2)(a)[204-5(2)(b)]).

(b) The nature of the turbidity particles shall be considered. Turbidity must not be attributable to colloidal clay.

(c) The nature and extent of algae growths in the raw water shall be considered. Algae must not be a species considered as filter and screen-clogging algae as indicated in "Standard Methods for the Examination[Examination] of Water and Wastewater" prepared and published jointly by American Public Health Association, American Water Works Association, and Water Environment Federation. High concentrations of algae in the raw water can cause short filter runs; the amount of algae, expressed as the concentration of chlorophyll a in the raw water shall not exceed 0.005 mg/l.

(3) Pilot Plant Studies.

The Executive Secretary shall allow the use of Slow Sand Filtration only when the supplier's engineering studies show that the slow sand facility can consistently produce an effluent meeting the quality requirements of rule R309-103. The Executive Secretary should be consulted prior to the detailed design of a slow sand facility.

(4) Operation.

Effluent from a Slow Sand Filtration facility shall not be introduced into a public water supply until an active biological mat has been created on the filter.

(5) Design requirements.

The following design parameters shall apply to each Slow Sand Filtration plant:

(a) At least three filter units shall be provided. Where only three units are provided, any two shall be capable of meeting the plant's design capacity (normally the projected "peak daily flow") at the approved filtration rate. Where more than three filter units are provided, the filters shall be capable of meeting the plant design capacity at the approved filtration rate with any one filter removed from service.

(b) All filters shall be protected to prevent freezing. If covered by a structure, enough headroom shall exist to permit normal movement by operating personnel for scraping and sand removal operations. There shall be adequate manholes and access ports for the handling of sand. An overflow at the maximum filter water level shall be provided.

(c) The permissible rates of filtration shall be determined by the quality of the source water and shall be determined by experimental data derived during pilot studies conducted on the source water. Filtration rates of 0.03 gpm/sf to 0.01 gpm/sf shall be acceptable (equivalent to two to six million gallons per day per acre). Somewhat higher rates may be acceptable when demonstrated to the satisfaction of the Executive Secretary.

(d) Each filter unit shall be equipped with a main drain and an adequate number of lateral underdrains to collect the filtered water. The underdrains shall be so spaced that the maximum velocity of the water flow in the underdrain will not exceed 0.75 fps. The

maximum spacing of the laterals shall not exceed three feet if pipe laterals are used.

(e) Filter sand shall be placed on graded gravel layers for an initial filter sand depth of 30 inches. A minimum of 24 inches of filter sand shall be present, even after scraping. The effective size of the filter sand shall be between 0.30 mm and 0.45 mm in diameter. The filter sand uniformity coefficient shall not exceed 2.5. Further, the sand shall thoroughly washed and found to be clean and free from foreign matter.

(f) A three-inch layer of well rounded sand shall be used as a supporting media for filter sand. It shall have an effective size of 0.8 mm to 2.0 mm in diameter and the uniformity coefficient shall not be greater than 1.7.

(g) A supporting gravel media shall be provided. It shall consist of hard, durable, rounded silica particles and shall not include flat or elongated particles. The coarsest gravel shall be 2.5 inches in size when the gravel rests directly on the strainer system, and must extend above the top of the perforated laterals. Not less than four layers of gravel shall be provided in accordance with the following size and depth distribution when used with perforated laterals:

TABLE 530-1

Size	Depth
2 1/2 to 1 1/2 inches	5 to 8 inches
1 1/2 to 3/4 inches	3 to 5 inches
3/4 to 1/2 inches	3 to 5 inches
1/2 to 3/16 inches	2 to 3 inches
3/16 to 3/32 inches	2 to 3 inches

Reduction of gravel depths may be considered upon justification to the Executive Secretary when proprietary filter bottoms are specified.

(h) Slow sand filters shall be designed to provide a depth of at least three to five feet of water over the sand.

(i) Each filter shall be equipped with: a loss of head gauge; an orifice, venturi meter, or other suitable metering device installed on each filter to control the rate of filtration; and an effluent pipe designed to maintain the water level above the top of the filter sand.

(j) Disinfection of the effluent of Slow Sand Filtration plants will be required.

(k) A filter-to-waste provision shall be included.

(l) Electrical power shall be available at the plant site.

R309-530[207]-7. Diatomaceous Earth Filtration.

The use of Diatomaceous Earth Filtration units may be considered for application to surface waters with low turbidity and low bacterial contamination, and additionally may be used for iron removal for groundwaters of low quality, providing the removal is effective and the water is of sanitary quality before treatment.

The acceptability of Diatomaceous Earth Filtration as a substitute for "conventional surface water treatment" facilities (detailed in rule R309-525[206]) shall be determined by the Executive Secretary. Determination may be based on the level of support previously exhibited by the public water system management along with a finding by the Executive Secretary that "conventional surface water treatment" or other methods herein described are too costly or unacceptable.

Diatomaceous Earth Filtration consists of a process to remove particles from water wherein a precoat cake of diatomaceous earth

filter media is deposited on a support membrane (septum), and while the water is filtered by passing through the cake on the septum, additional filter media known as body feed is continuously added to the source water to maintain the permeability of the filter cake. Diatomite filters are characterized by rigorous operating requirements, high operating costs, and increased sludge production.

Part 4, Section 4.2.3, Diatomaceous Earth Filtration, in the Recommended Standards for Water Works (commonly known as "Ten State Standards"), 1997[1992] edition is hereby incorporated by reference and shall govern the design and operation of diatomaceous earth filtration facilities. This document is published by the Great Lakes-Upper Mississippi River Board of Public Health and Environmental Managers. A copy is available in the office of the Division for reference.

R309-530[207]-8. Membrane Technology.

(1) Acceptability.

Surface waters, or groundwater under the direct influence of surface water (UDI), may be treated using membrane technology (microfiltration, ultrafiltration, nanofiltration) coupled with "primary and secondary disinfection."

(2) Pilot Plant Study.

Because this is a relatively new technology, appropriate investigation shall be conducted by the public water system to assure that the process will produce the required quality of water at a cost which can be borne by the public water system consumers. A pilot plant study shall be conducted prior to the commencement of design. The study must be conducted in accordance with EPA's Environmental Technology Verification Program (ETV) or ~~the "State Alternative Technology Approval Protocol" as published by the Association of State Drinking Water Administrators (copies available from the Division). Further,~~ the protocol and treated water parameters must be approved prior to conducting any testing by the Executive Secretary ~~[conform to the requirements of "Development of a Small-Scale Bench Membrane Unit and Protocol for Compliance with the ICR" as published by EPA].~~

(3) Design Requirements.

The following items shall be addressed in the design of any membrane technology plant intended to provide microbiological treatment of surface waters or groundwater "UDI:"

(a) The facility shall be equipped with an on-line particle counter on the final effluent.

(b) The facility shall be equipped with an automatic membrane integrity test system.

R309-530[207]-9. New Treatment Processes or Equipment.

The policy of the Board is to encourage, rather than to obstruct, the development of new methods and equipment for the treatment of water. Nevertheless, any new processes or equipment must have been thoroughly tested in full-scale, comparable installations, before approval of plans can be issued. Refer to EPA's Environmental Technology Verification Program (ETV) ~~[the "State Alternative Technology Approval Protocol" as published by the Association of State Drinking Water Administrators (copies available from the Division)].~~

No new treatment process will be approved for use in Utah unless the designer or supplier can present evidence satisfactory to the Executive Secretary that the process will insure the delivery of

water of safe, sanitary quality, without imposing undue problems of supervision, operation and/or control.

KEY: drinking water, direct filtration, slow sand filtration, membrane technology
[January 1, 1998]2001 **19-4-104**



Environmental Quality, Drinking Water **R309-209** **(Changed to R309-540)** Facility Design and Operation: Pump Stations

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23660

FILED: 04/16/2001, 11:03

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this rule is to provide specific requirements for pump stations utilized to deliver drinking water to facilities of public water systems. This change is primarily a re-numbering of Rule R309-209 to conform with a re-numbering scheme approved by the Drinking Water Board to allow for forthcoming rule changes mandated by the federal Safe Drinking Water Act (SDWA).

SUMMARY OF THE RULE OR CHANGE: This primarily is a re-numbering of existing Rule R309-209 with some minor corrections to bring clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** None--Because this is primarily a re-numbering of existing Rule R309-209, there will be no increased work load to staff nor any change to the State budget as a result of this proposed change.

❖**LOCAL GOVERNMENTS:** None--Because this is primarily a re-numbering of existing Rule R309-209, there will be no increased work load to staff nor any change to local government as a result of this proposed change.

❖**OTHER PERSONS:** None--Because this is primarily a re-numbering of existing Rule R309-209, there will be no increased work load to staff nor any change to other persons as a result of this proposed change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Because this rule change deals only with minor clarification and re-numbering of an existing rule there will be no additional cost to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The department agrees that the proposed rule change will not have any fiscal impact on public water systems or affiliated businesses such as engineering firms which provide services to these systems.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Drinking Water
Second Floor
150 North 1950 West
PO Box 144830
Salt Lake City, UT 84114-4830, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Michael B. Georgeson or William B. Birkes at the above address, by phone at (801) 536-4197 or (801) 536-4201, by FAX at (801) 536-4211, or by Internet E-mail at mgeorges@deq.state.ut.us or bbirkes@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: Kevin W. Brown, Director

**R309. Environmental Quality, Drinking Water.
R309-540[209]. Facility Design and Operation: Pump Stations.
R309-540[209]-1. Purpose.**

The purpose of this rule is to provide specific requirements for pump stations utilized to deliver drinking water to facilities of public water systems. It is intended to be applied in conjunction with rules R309-500[209] through R309-550[211]. Collectively, these rules govern the design, construction, operation and maintenance of public drinking water system facilities. These rules are intended to assure that such facilities are reliably capable of supplying adequate quantities of water which consistently meet applicable drinking water quality requirements and do not pose a threat to general public health.

R309-540[209]-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code [Annotated] and in accordance with 63-46a of the same, known as the Administrative Rulemaking Act.

R309-540[209]-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110[200] but may be further clarified herein.

R309-540[209]-4. General.

Pumping stations shall be designed to maintain the sanitary quality of water and to provide ample quantities of water at sufficient pressure.

R309-540[209]-5. Pumping Facilities.

- (1) Location.
 - (a) The pumping station shall be designed such that:
 - (i) the proposed site will meet the requirements for sanitary protection of water quality, hydraulics of the system, and protection against interruption of service by fire, flood or any other hazard;
 - (ii) the access to the pump station shall be six inches above the surrounding ground and the station located at an elevation which is a minimum of three feet above the 100-year flood elevation, or three feet above the highest recorded flood elevation, which ever is higher, or protected to such elevations;
 - (iii) the station is readily accessible at all times unless permitted to be out of service for the period of inaccessibility;
 - (iv) surrounding ground is graded so as to lead surface drainage away from the station; and
 - (v) the station is protected to prevent vandalism and entrance by animals or unauthorized persons.
 - (2) Pumping Stations.
 - (a) Building structures for both raw and drinking water shall:
 - (i) have adequate space for the installation of additional pumping units if needed, and for the safe servicing of all equipment;
 - (ii) be of durable construction, fire and weather resistant, with outward-opening doors;
 - (iii) have an interior floor elevation at least six inches above the exterior finished grade;
 - (iv) have any underground facilities, especially wet wells, waterproofed;
 - (v) have all interior floors drained in such a manner that the quality of drinking water contained in any wet wells will not be endangered. All floors shall slope at least one percent (one foot every 100 feet) to a suitable drain; and
 - (vi) provide a suitable outlet for drainage from pump glands without discharging onto the floor.
 - (b) Suction wells shall:
 - (i) be watertight;
 - (ii) have floors sloped to permit removal of water and entrained solids;
 - (iii) be covered or otherwise protected against contamination; and
 - (iv) have two pumping compartments or other means to allow the suction well to be taken out of service for inspection, maintenance, or repair.
 - (c) Servicing equipment shall consist of:
 - (i) crane-ways, hoist beams, eyebolts, or other adequate facilities for servicing or removal of pumps, motors or other heavy equipment;
 - (ii) openings in floors, roofs or wherever else needed for removal of heavy or bulky equipment; and
 - (iii) a convenient tool board, or other facilities as needed, for proper maintenance of the equipment.
 - (d) Stairways and ladders shall:
 - (i) be provided between all floors, and in pits or compartments which must be entered; and
 - (ii) have handrails on both sides, and treads of non-slip material. They shall have risers not exceeding nine inches and treads wide enough for safety.
 - (e) Heating provisions shall be adequate for:
 - (i) the comfort of the operator; and
 - (ii) the safe and efficient operation of the equipment.

(f) Ventilation shall:

(i) conform to existing local and/or state codes; and

(ii) forced ventilation of at least six changes of air per hour shall be provided for all rooms, compartments, pits and other enclosures below ground floor, and any area where unsafe atmosphere may develop or where excessive heat may be built up.

(g) Lighting.

Pump stations shall be adequately lighted throughout. All electrical work shall conform to the requirements of the relevant state and/or local building codes.

(h) Sanitary and other conveniences.

Plumbing shall be so installed as to prevent contamination of a public water supply. Wastes shall be discharged in accordance with the plumbing code, R317-4, or R317-1-3[R309-212-5(1)].

(3) Pumps.

(a) Capacity.

Capacity shall be provided such that the [by having at least two pumping units. With any one pump out of service, the remaining] pump or pumps shall be capable of providing the peak day demand of the system or the specific portion of the system serviced [by the pumps].

The pumping units shall:

(i) have ample capacity to supply the peak day demand against the required distribution system pressure without dangerous overloading;

(ii) be driven by prime movers able to meet the maximum horsepower condition of the pumps without use of service factors;

(iii) be provided readily available spare parts and tools; and

(iv) be served by control equipment that has proper heater and overload protection for air temperature encountered.

(b) Suction Lift.

Suction lift, where possible, shall be avoided. If suction lift is necessary, the required lift shall be within the pump manufacturer's recommended limits and provision shall be made for priming the pumps.

(c) Priming.

Prime water shall not be of lesser sanitary quality than that of the water being pumped. Means shall be provided to prevent back siphonage. When an air-operated ejector is used, the screened intake shall draw clean air from a point at least 10 feet above the ground or other source.

(4) Booster Pumps.

(a) Booster pumps shall be located or controlled so that:

(i) they will not produce negative pressure in their suction lines;

(ii) automatic cutoff pressure shall be at least 10 psi in the suction line;

(iii) automatic or remote control devices shall have a range between the start and cutoff pressure which will prevent excessive cycling; and

(iv) a bypass is available.

(b) Inline booster pumps (pumps withdrawing water directly from distribution lines without the benefit of storage and feeding such water directly into other distribution lines rather than storage), in addition to the other requirements of this section, shall have at least two pumping units (such that with any one pump out of service, the remaining pump or pumps shall be capable of providing the peak day demand of the specific portion of the system serviced), shall be accessible for servicing and repair and located or controlled

so that the intake pressure shall be at least 20 psi when the pump or pumps are[is] in normal operation.

(c) Individual home booster pumps shall not be allowed for any individual service from the public water supply main.

(5) Automatic and remote controlled stations.

All remote controlled stations shall be electrically operated and controlled and shall have signaling apparatus of proven performance. Installation of electrical equipment shall conform with the applicable state and local electrical codes and the National Electrical Code.

(6) Appurtenances.

(a) Valves.

Valves shall be used to permit satisfactory operation, maintenance, and repair of the equipment. If foot valves are necessary, they shall have a net valve area of at least 2 1/2 times the area of the suction pipe and they shall have a positive-acting check valve on the discharge side between the pump and the shut-off valve.

(b) Piping.

Piping within and near pumping stations shall:

(i) be designed so that the friction losses will be minimized;

(ii) not be subject to contamination;

(iii) have watertight joints;

(iv) be protected against surge or water hammer; and

(v) be such that each pump has an individual suction line or that the lines shall be so manifolded that they will insure similar hydraulic and operating conditions.

(c) Gauges and Meters.

Each pump shall:

(i) have a standard pressure gauge on its discharge line;

(ii) have a compound gauge (capable of indicating negative pressure or vacuum as well as positive pressure) on its suction line; and

(iii) have recording gauges in the larger stations.

(d) Water Seal.

Where pumps utilize water seals, the seals shall:

(i) not be supplied with water of a lesser sanitary quality than that of the water being pumped; and

(ii) when pumps are sealed with potable water and are pumping water of lesser sanitary quality, the seal shall be provided with a break tank open to atmospheric pressure, and have an air gap of at least six inches or two pipe diameters, whichever is greater, between the feeder line and the spill line of the tank.

(e) Controls.

Controls shall be designed in such a manner that they will operate their prime movers, and accessories, at the rated capacity without dangerous overload. Where two or more pumps are installed, provision shall be made for alternation. Provision shall be made to prevent energizing the motor in the event of a backspin cycle. Electrical controls shall be protected against flooding. Equipment shall be provided or other arrangements made to prevent surge pressures from activating controls which switch on pumps or activate other equipment outside the normal design cycle of operation.

(f) Standby Power.

Standby power, to ensure continuous service when the primary power has been interrupted, shall be provided from at least two independent sources or a standby or an auxiliary source shall be provided. If standby power is provided by onsite generators or

engines, the fuel storage and fuel line must be designed to protect the water supply from contamination.

(g) Water Pre-Lubrication.

When automatic pre-lubrication of pump bearings is necessary and an auxiliary direct drive power supply is provided, the pre-lubrication line shall be provided with a valved bypass around the automatic control so that the bearings can, if necessary, be lubricated manually before the pump is started or the pre-lubrication controls shall be wired to the auxiliary power supply.

R309-540[209]-6. Hydropneumatic Systems.

(1) General.

Hydropneumatic systems shall comply with all appropriate sections of R309-540[209]-5.

Unpressurized ground level or elevated storage, designed in accordance with R309-545[210], shall be provided in addition to the diaphragm or air tanks. Diaphragm or air pressure tank storage shall not be considered for fire protection purposes or effective system storage.

(2) Location.

If diaphragm or air tanks and appurtenances are located below ground, adequate provisions for drainage, ventilation, maintenance, and flood protection shall be made and the electrical controls shall be located above grade so as to be protected from flooding as required by R309-540[209]-5(6)(e). Any discharge piping from combination air release/vacuum relief valves(air/vac's) or pressure relief valves located in below ground chambers shall comply with all the pertinent requirements of R309-550[211]-6(6).

(3) Operating Pressures.

The system shall be designed to provide a minimum of 20 psi pressure at all points in the distribution system during peak instantaneous flow conditions. A pressure gauge shall be installed on the pressure tank inlet line.

(4) Piping.

In addition to the bypass required by R309-540[209]-5(4)(iv)[(v)] on the pumps, the diaphragm or air tanks shall have sufficient bypass piping to permit operation of the hydropneumatic system while one or more of the tanks are being repaired or painted.

(5) Pumps.

At least two pumping units shall be provided. With any pump out of service the remaining pump or pumps shall be capable of providing the peak instantaneous demand of the system as described in R309-510[202]-9[6](2), while recharging the pressure tank at 115 percent of the upper pressure setting. Pump cycling shall not exceed 15 starts per hour, with a maximum of ten starts per hour preferred.

(6) Pressure Tanks.

(a) Pressure tanks shall meet the requirement of state and local laws and regulations for the manufacture and installation of unfired pressure vessels. Interior coatings or diaphragms used in pressure tanks that will come into contact with the drinking water shall comply with ANSI/NSF Standard 61. Non diaphragm pressure tanks shall have an access manhole, a drain, control equipment consisting of pressure gauge, water sight glass, automatic or manual air blow-off, means for adding air, and pressure operated start-stop controls for the pumps.

(b) The minimum volume of the pressure tank or combination of tanks shall be greater than or equal to the sum of S and the value of CX divided by 4W.

where the following values are used in the equation above:

C = minutes per operating cycle, four minutes to meet the requirements of R309-540[209]-6(5) above or preferably six minutes, and is equal to pump ON time plus pump OFF time.

X = output capacity rating of the pump(s) at the high pressure condition in the tank(s), in gpm.

W = percent of volume withdrawn during a given drop in tank pressure: specifically, between P_h and P_l . $W = 100(P_h - P_l)/P_h$ where P_h = high pressure in tank in psia (high absolute pressure) and P_l = low pressure in tank in psia (low absolute pressure). Values of W range typically from 0.26 to 0.31 for pressure differentials of 15 to 30 psi and high system pressures of 45 to 85 psi at elevations of approximately 5,000 feet.

S = water seal volume in gallons, the volume of inactive water remaining in tank at low pressure condition.

(7) Air Volume.

The method of adjusting the air volume shall be acceptable to the Executive Secretary. Air delivered by compressors to the pressure tank shall be adequately filtered, oil free, and be of adequate volume. Any intake shall be screened and draw clean air from a point at least 10 feet above the ground or other source of possible contamination, unless the air is filtered by an apparatus approved by the Executive Secretary. Discharge piping from air relief valves shall be designed and installed with screens to eliminate the possibility of contamination from this source.

(8) Water Seal.

For air pressure tanks without an internal diaphragm the volume of water remaining in a air pressure tank at the lower pressure setting shall be sufficient to provide an adequate water seal at the outlet to prevent the leakage of air.

The following water seal depths shall be considered as minimum requirements.

(a) Horizontal outlets shall maintain sufficient depth, as measured from the centerline of the horizontal outlet pipe, such that the depth is greater than or equal to the sum of d and twice the value v^2 divided by 2G.

(b) Vertical outlets, if unbaffled, the depth shall be the same as in (a) except measured from the pipe outlet; if baffled, the depth shall be greater than or equal to the value v^2 divided by 2G.

where the following values are used in the equations above:

v = the axial velocity in the pipe outlet for the peak instantaneous demand flow rate of the system.

d = the diameter of the outlet pipe in ft.

G = the gravitational constant of 32.2 ft/sec/sec.

(9) Standby Power Supply.

Where a hydropneumatic system is intended to serve a public water system, categorized as a community water system as defined in R309-110[101-1], a standby source of power shall be provided.

KEY: drinking water, pumps, hydropneumatic systems, individual home booster pumps
[January 1, 1998]2001 **19-4-104**



Environmental Quality, Drinking Water
R309-211
(Changed to R309-550)
 Facility Design and Operation:
 Transmission and Distribution
 Pipelines

NOTICE OF PROPOSED RULE

(Amendment)

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RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this rule is to provide specific requirements for the design and installation of transmission and distribution pipelines which are utilized to deliver culinary drinking water to facilities of public water systems. This change is primarily a re-numbering of Rule R309-211 to conform with a re-numbering scheme approved by the Drinking Water Board to allow for forthcoming rule changes mandated by the federal Safe Drinking Water Act (SDWA).

SUMMARY OF THE RULE OR CHANGE: This primarily is a re-numbering of existing Rule R309-211 with some minor corrections to bring clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--Because this is primarily a re-numbering of existing Rule R309-211, there will be no increased work load to staff nor any change to the State budget as a result of this proposed change.

❖LOCAL GOVERNMENTS: None--Because this is primarily a re-numbering of existing Rule R309-211, there will be no increased work load to staff nor any change to local government as a result of this proposed change.

❖OTHER PERSONS: None--Because this is primarily a re-numbering of existing Rule R309-211, there will be no increased work load to staff nor any change to other persons as a result of this proposed change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Because this rule change deals only with minor clarification and re-numbering of an existing rule there will be no additional cost to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The department agrees that the proposed rule change will not have any fiscal impact on public water systems or affiliated businesses such as engineering firms which provide services to these systems.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
 Drinking Water
 Second Floor
 150 North 1950 West
 PO Box 144830
 Salt Lake City, UT 84114-4830, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Michael B. Georgeson or William B. Birkes at the above address, by phone at (801) 536-4197 or (801) 536-4201, by FAX at (801) 536-4211, or by Internet E-mail at mgeorgeson@deq.state.ut.us or bbirkes@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: Kevin W. Brown, Director

R309. Environmental Quality, Drinking Water.

R309-550[211]. Facility Design and Operation: Transmission and Distribution Pipelines.

R309-550[211]-1. Purpose.

The purpose of this rule is to provide specific requirements for the design and installation of transmission and distribution pipelines which are utilized to deliver culinary drinking water to facilities of public drinking water systems or to consumers. It is intended to be applied in conjunction with rules R309-500[201] through R309-550[211]. Collectively, these rules govern the design, construction, operation and maintenance of public drinking water system facilities. These rules are intended to assure that such facilities are reliably capable of supplying adequate quantities of water which consistently meet applicable drinking water quality requirements and do not pose a threat to general public health.

R309-550[211]-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code [Annotated] and in accordance with 63-46a of the same, known as the Administrative Rulemaking Act.

R309-550[211]-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110[200] but may be further clarified herein.

R309-550[211]-4. General.

Transmission and distribution pipelines shall be designed, constructed and operated to convey adequate quantities of water at ample pressure, while maintaining water quality.

R309-550[211]-5. Water Main Design.

(1) Distribution System Pressure.

The distribution system shall be designed to maintain a minimum pressure of 20 psi (at ground level) at all points of

connection, under all conditions of flow, but especially during peak ~~day~~^[instantaneous] flow conditions, including fire flows.

(2) Assumed Flow Rates.

Flow rates to be assumed when designing or analyzing distribution systems shall be as given in R309-~~510~~^[203] of these rules.

(3) Computerized Network Analysis.

(a) All water mains shall be sized after a hydraulic analysis based on flow demands and pressure requirements. If the calculations needed to conduct this hydraulic analysis are complex, a computerized network analysis shall be performed to verify that the distribution system will be capable of meeting the requirements of this rule.

(b) Where improvements will upgrade more than 50% of an existing distribution system, or where a new distribution system is proposed, a hydraulic analysis of the entire system shall be prepared and submitted for review prior to plan approval.

(c) In the analysis and design of water distribution systems, the following Hazen-William coefficients shall be used: PVC pipe = 140; Ductile Iron Pipe = 120; Cement-Mortar Lined Ductile Iron Pipe = 130 to 140.

(4) Minimum Water Main Size.

For water mains not connected to fire hydrants, the minimum line size shall be 4-inch diameter. Minimum water main size serving a fire hydrant lateral shall be 8-inch diameter unless a hydraulic analysis indicates that required flow and pressures can be maintained by smaller lines.

(5) Fire Protection.

(a) The design of the distribution system shall be consistent with Appendix III-A and III-B of the 1991 Uniform Fire Code. As specified in this code, minimum fire-flow requirements are:

(i) 1000 gpm for one- and two-family dwellings with an area of less than 3600 square feet.

(ii) 1500 gpm or greater for all other buildings.

(b) The location of fire hydrants shall be consistent with Appendix III-B of the 1991 Uniform Fire Code. As specified in this code, average spacing between hydrants must be no greater than 500 ft.

(c) An exception to the fire protection requirements of (a) and (b) may be granted if a suitable statement is received from the local fire protection authority.

(d) Water mains not designed to carry fire flows shall not have fire hydrants connected to them.

(e) The design engineer shall verify that the pipe network design permits fire-flows to be met at representative locations while a minimum pressure of 20 psi is maintained at all times and at all points in the distribution system.

(f) As a minimum, the flows to be assumed during a fire-flow analysis shall be the "peak day demand" plus the fire flow requirement.

(6) Geologic Considerations.

The character of the soil through which water mains are to be laid shall be considered. This information shall accompany any submittal for a pipeline project.

(7) Dead Ends.

(a) In order to provide increased reliability of service and reduce head loss, dead ends shall be minimized by making appropriate tie-ins whenever practical.

(b) Where dead-end mains occur, they shall be provided with a fire hydrant if flow and pressure are sufficient, or with an approved flushing hydrant or blow-off for flushing purposes. Flushing devices shall be sized to provide flows which will give a velocity of at least 2.5 fps in the water main being flushed. No flushing device shall be directly connected to any sewer.

(8) Valves.

Sufficient valves shall be provided on water mains so that inconvenience and sanitary hazards will be minimized during repairs. Valves shall be located at not more than 500 foot intervals in commercial districts and at not more than one block or 800 foot intervals in other districts. Where systems serve widely scattered customers and where future development is not expected, the valve spacing shall not exceed one mile.

(9) Corrosive Soils.

The design engineer shall consider the materials to be used when corrosive soils or waters will be encountered.

(10) Special Precautions in Areas of Groundwater Contamination by Organic Compounds.

Where distribution systems are installed in areas of groundwater contaminated by organic compounds:

(a) pipe and joint materials which are not subject to permeation of the organic compounds shall be used.

(b) non-permeable materials shall be used for all portions of the system including water main, service connections and hydrants leads.

(11) Separation of Water Mains from Other Sources of Contamination.

Design engineers shall exercise caution when locating water mains at or near certain sites such as sewage treatment plants or industrial complexes. Individual septic tanks shall be located and avoided. The engineer shall contact the Division to establish specific design requirements for locating water mains near any source of contamination.

R309-~~550~~^[211]-6. Component Materials and Design.

(1) NSF Standard for Health Effects.

All materials which may contact drinking water, including pipes, gaskets, lubricants and O-Rings, shall be ANSI-certified as meeting the requirements of NSF Standard 61, Drinking Water System Components - Health Effects. To permit field-verification of this certification, all such components shall be appropriately stamped with the NSF logo.

(2) Restrictions on Asbestos and Lead.

(a) The use of asbestos cement pipe shall not be allowed.

(b) Pipes and pipe fittings containing more than 8% lead shall not be used. Lead-tip gaskets shall not be used. Repairs to lead-joint pipe shall be made using alternative methods.

(3) AWWA Standards for Mechanical Properties.

Pipe, joints, fittings, valves and fire hydrants shall conform to NSF Standard 61 or Standard 14, and applicable sections of ANSI/AWWA Standards C104-95 through C550-90 and C900-97 through C950-95.

(4) Used Materials.

Only materials which have been used previously for conveying potable water may be reused. Used materials shall meet the above standards, be thoroughly cleaned, and be restored practically to their original condition.

(5) Fire Hydrant Design.

Hydrant drains shall not be connected to or located within 10 feet of sanitary sewers or storm drains.

(6) Air Relief Valves.

At high points in water mains where air can accumulate, provisions shall be made to remove air by means of hydrants or air relief valves. Automatic air relief valves shall not be used in situations where flooding may occur.

(a) Air Relief Valve Vent Piping.

The open end of an air relief vent pipe from automatic valves shall, where possible as determined by public water system management, be extended to at least one foot above grade and provided with a screened (#14 mesh, non-corrodible) downward elbow. Alternately, the open end of the pipe may be extended to as little as one foot above the top of the pipe if the valve's chamber is not subject to flooding and provided with a drain-to-daylight (See (b) below). Blow-offs or air relief valves shall not be connected directly to any sewer.

(b) Chamber Drainage.

Chambers, pits or manholes containing valves, blow-offs, meters, other such appurtenances to a distribution system, shall not be connected directly to any storm drain or sanitary sewer. They shall be provided with a drain to daylight. Where this is not possible, underground gravel filled absorption pits may be used if the site is not subject to flooding and conditions will assure adequate drainage. Where a chamber contains an air relief valve, and it is not possible to provide a drain-to-daylight, the vent pipe from the valve shall be extended to at least one foot above grade (See (a) above). Only when it is both impossible to extend the vent pipe above grade, and impossible to provide a drain-to-daylight may a gravel filled sump be utilized to provide chamber drainage (assuming local ground conditions permit adequate drainage without ground water intrusion).

R309-550[2H]-7. Separation of Water Mains and Transmission Lines from Sewers and Other Pollution Sources.

(1) Basic Separation Standards.

The horizontal distance between pressure water mains and sanitary sewer lines shall be at least ten feet. Where a water main and a sewer line must cross, the water main shall be at least 18 inches above the sewer line. Separation distances shall be measured edge-to-edge (i.e. from the nearest edges of the facilities). Water mains and sewer lines shall not be installed in the same trench.

(2) Exceptions to Basic Separation Standards.

Local conditions, such as available space, limited slope, existing structures, etc., may create a situation where there is no alternative but to install water mains or sewer lines at a distance less than that required by Subsection (1), above. Exceptions to the rule may be provided by the Executive Secretary ~~as allowed by R309-102-2.2;~~ if it can be shown that the granting of such an exception will not jeopardize the public health.

(3) Special Provisions.

The following special provisions apply to all situations:

(a) The basic separation standards are applicable under normal conditions for sewage collection lines and water distribution mains. More stringent requirements may be necessary if conditions such as high groundwater exist.

(b) Sewer lines shall not be installed within 25 feet horizontally of a low head (5 psi or less pressure) water main.

(c) Sewer lines shall not be installed within 50 feet horizontally of any transmission line segment which may become unpressurized.

(d) New water mains and sewers shall be pressure tested where the conduits are located ten feet apart or less.

(e) In the installation of water mains or sewer lines, measures shall be taken to prevent or minimize disturbances of the existing line.

(f) Special consideration shall be given to the selection of pipe materials if corrosive conditions are likely to exist. These conditions may be due to soil type and/or the nature of the fluid conveyed in the conduit, such as a septic sewage which produces corrosive hydrogen sulfide.

(g) Sewer Force Mains

(i) Sewer force mains shall not be installed within ten feet (horizontally) of a water main.

(ii) When a sewer force main must cross a water line, the crossing shall be as close as practical to the perpendicular. The sewer force main shall be at least 18 inches below the water line.

(iii) When a new sewer force main crosses under an existing water main, all portions of the sewer force main within ten feet (horizontally) of the water main shall be enclosed in a continuous sleeve.

(iv) When a new water main crosses over an existing sewer force main, the water main shall be constructed of pipe materials with a minimum rated working pressure of 200 psi or equivalent pressure rating.

(4) Water Service Laterals Crossing Sewer Mains and Laterals.

Water service laterals shall conform to all requirements given herein for the separation of water and sewer lines.

R309-550[2H]-8. Installation of Water Mains.

(1) Standards.

(a) The specifications shall incorporate the provisions of the manufacturer's recommended installation procedures or the following standards:

(i) AWWA Standard C600-99[87], Installation of Ductile Iron Water Mains and Their Appurtenances

(ii) ASTM D2774, Recommended Practice for Underground Installation of Thermoplastic Pressure Piping and PVC Pipe

(b) The provisions of the following publication shall be followed for PVC pipe design and installation:

PVC Pipe - Design and Installation, AWWA Manual M23, 1990, published by the American Water Works Association

(2) Bedding.

A continuous and uniform bedding shall be provided in the trench for all buried pipe. Stones larger than the backfill materials described below shall be removed for a depth of at least six inches below the bottom of the pipe.

(3) Backfill.

Backfill material shall be tamped in layers around the pipe and to a sufficient height above the pipe to adequately support and protect the pipe. The material and backfill zones shall be as specified by the standards referenced in Subsection (1), above. As a minimum:

(a) For plastic pipe, backfill material with a maximum particle size of 3/4 inch shall be used to surround the pipe.

(b) For ductile iron pipe, backfill material shall contain no stones larger than 2 inches.

(4) Dropping Pipe into Trench.

Under no circumstances shall the pipe or accessories be dropped into the trench.

(5) Burial Cover.

All water mains shall be covered with sufficient earth or other insulation to prevent freezing unless they are part of a non-community system that can be shut-down and drained during winter months when temperatures are below freezing.

(6) Thrust Blocking.

All tees, bends, plugs and hydrants shall be provided with reaction blocking, tie rods or joints designed to prevent movement.

(7) Pressure and Leakage Testing.

All types of installed pipe shall be pressure tested and leakage tested in accordance with AWWA Standard C600-99[93].

(8) Surface Water Crossings.

(a) Above Water Crossings

The pipe shall be adequately supported and anchored, protected from damage and freezing, and accessible for repair or replacement.

(b) Underwater Crossings

A minimum cover of two feet or greater, as local conditions may dictate, shall be provided over the pipe. When crossing water courses which are greater than 15 feet in width, the following shall be provided:

(i) The pipe shall be of special construction, having restrained joints for any joints within the surface water course and flexible restrained joints at both edges of the water course.

(ii) Valves shall be provided at both ends of water crossings so that the section can be isolated for testing or repair; the valves shall be easily accessible, and not subject to flooding; and the valve nearest to the supply source shall be in a manhole.

(iii) Permanent taps shall be made on each side of the valve within the manhole to allow insertion of testing equipment to determine leakage and for sampling purposes.

(9) Sealing Pipe Ends During Construction.

The open ends of all pipeline under construction shall be covered and effectively sealed at the end of the day's work.

(10) Disinfecting Water Distribution Systems.

All new water mains or appurtenances shall be disinfected in accordance with AWWA Standard C651-99[92]. The specifications shall include detailed procedures for the adequate flushing, disinfection and microbiological testing of all water mains. On all new and extensive distribution system construction, evidence of satisfactory disinfection shall be provided to the Division. Samples for coliform analyses shall be collected after disinfection is complete and the system is refilled with potable water. A standard heterotrophic plate count is advisable. The use of water for culinary purposes shall not commence until the bacteriologic tests indicate the water to be free from contamination.

R309-550[211]-9. Cross Connections and Interconnections.

(1) Physical Cross Connections.

There shall be no physical cross connections between the distribution system and pipe, pumps, hydrants, or tanks which are supplied from, or which may be supplied or contaminated from, any source except as approved by the Executive Secretary.

(2) Recycled Water.

Neither steam condensate nor cooling water from engine jackets or other heat exchange devices shall be returned to the potable water supply.

(3) System Interconnects.

The approval of the Executive Secretary shall be obtained for interconnections between different potable water supply systems.

R309-550[211]-10. Water Hauling.

Water hauling is not an acceptable permanent method for culinary water distribution in community water systems. Proposals for water hauling shall be submitted to and approved by the Executive Secretary.

(1) Exceptions.

The Executive Secretary may allow its use for non-community public water supplies if:

(a) consumers could not otherwise be supplied with good quality drinking water, or

(b) the nature of the development, or ground conditions, are such that the placement of a pipe distribution system is not justified.

(2) Emergencies.

Hauling may also be necessary as a temporary means of providing culinary water in an emergency.

R309-550[211]-11. Service Connections and Plumbing.

(1) Service Taps.

Service taps shall be made so as to not jeopardize the sanitary quality of the system's water.

(2) Plumbing.

(a) Service lines shall be capped until used.

(b) Water services and plumbing shall conform to the Utah Plumbing Code. Solders and flux containing more than 0.2% lead and pipe and pipe fittings containing more than 8% lead shall not be used.

(3) Individual Home Booster Pumps.

Individual booster pumps shall not be allowed for any individual service from the public water supply mains. Exceptions to the rule may be provided by the Executive Secretary [~~as allowed by R309-102-2.2.~~] if it can be shown that the granting of such an exception will not jeopardize the public health.

(4) Service Lines.

The portion of the service line under the control of the water supplier is considered to be part of the distribution system and shall comply with all requirements given herein.

(5) Service Meters and Building Service Line.

Connections between the service meter and the home shall be in accordance with the Utah Plumbing Code.

(6) Allowable Connections.

All dwellings or other facilities connected to a public water supply shall be in conformance with the Utah Plumbing Code.

R309-550[211]-12. Transmission Lines.

(1) Unpressurized Flows.

Transmission lines shall conform to all applicable requirements in this rule. Transmission line design shall minimize unpressurized flows.

(2) Proximity to Concentrated Sources of Pollution.

A water supplier shall not route an unpressurized transmission line any closer than fifty feet to any concentrated source of pollution

(i.e. septic tanks and drain fields, garbage dumps, pit privies, sewer lines, feed lots, etc.). Furthermore, unpressurized transmission lines shall not be placed in boggy areas or areas subject to the ponding of water.

(3) Exceptions.

Where the water supplier cannot obtain a fifty foot separation distance from concentrated sources of pollution, it is permitted to use a Class 50 ductile iron pipe with joints acceptable to the Executive Secretary. Reasonable assurance must be provided to assure that contamination will not be able to enter the unpressurized pipeline.

R309-550[211]-13. Operation and Maintenance.

(1) Disinfection After Line Repair.

The disinfection procedures of Section 4.7[40], AWWA Standard C651-99[92] shall be followed if any water main is cut into or repaired.

(2) Cross Connections.

The water supplier shall not allow a connection which may jeopardize water quality. Cross connections are not allowed unless controlled by an approved and properly operating backflow prevention assembly. The requirements of the Utah Plumbing Code shall be met with respect to cross connection control and backflow prevention.

Suppliers shall maintain an inventory of each pressure vacuum breaker assembly, spill-resistant vacuum breaker assembly, double check valve assembly, reduced pressure principle backflow prevention assembly, and high hazard air gap used by their customers, and a service/inspection record for each such assembly.

Backflow prevention assemblies shall be inspected and tested at least once a year, by an individual certified for such work. This responsibility may be borne by the water system or the water system management may require that the customer having the backflow prevention assembly be responsible for having the device tested.

Suppliers serving areas also served by a pressurized irrigation system shall prevent cross connections between the two. Requirements for pressurized irrigation systems are outlined in Section 19-4-112[26-1-31] of the Utah Code[Annotated 1953 as amended].

(3) NSF Standards.

All pipe and fittings used in routine operation and maintenance shall be ANSI-certified as meeting NSF Standard 61 or Standard 14.

(4) Seasonal Operation.

Water systems operated seasonally shall be disinfected and flushed according to the techniques given in AWWA Standard C651-99 for pipelines and AWWA Standard C652-92 for storage facilities prior to each season's use. A satisfactory bacteriologic sample shall be achieved prior to use. During the non-use period, care shall be taken to close all openings into the system.

KEY: drinking water, transmission and distribution pipelines, connections, water hauling
[November 1, 1998]2001 **19-4-104**



**Environmental Quality, Radiation
 Control
 R313-12
 General Provisions**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 23667
 FILED: 04/16/2001, 13:43
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Add and define the words, "Permit" and "Permittee" to Section R313-12-3.

SUMMARY OF THE RULE OR CHANGE: Add definition of "Permit" and "Permittee" to the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-3-104 and 19-3-108

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None--Changes in this rule define and clarify only.
 - ❖LOCAL GOVERNMENTS: None--Changes in this rule define and clarify only.
 - ❖OTHER PERSONS: None--Changes in this rule define and clarify only.
- COMPLIANCE COSTS FOR AFFECTED PERSONS:** None expected because the change is for clarification and definition of the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on Utah businesses, this change is to provide clarification and definition of the rule only.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
 Radiation Control
 Building 2, State of Utah Office Park
 168 North 1950 West
 PO Box 144850
 Salt Lake City, UT 84114-4850, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

William Craig at the above address, by phone at (801) 536-4250, by FAX at (801) 533-4097, or by Internet E-mail at bcraig@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: William J. Sinclair, Director

R313. Environmental Quality, Radiation Control.
R313-12. General Provisions.

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R313-12-3. Definitions.

As used in these rules, these terms shall have the definitions set forth below. Additional definitions used only in a certain rule will be found in that rule.

"A₁" means the maximum activity of special form radioactive material permitted in a Type A package.

"A₂" means the maximum activity of radioactive material, other than special form radioactive material, low specific activity, and surface contaminated object material permitted in a Type A package. These values are either listed in 10 CFR 71, Appendix A, which is incorporated by reference in Section R313-19-100 or may be derived in accordance with the procedures prescribed in 10 CFR 71, Appendix A, which is incorporated by reference in Section R313-19-100.

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"Package" means the packaging together with its radioactive contents as presented for transport.

"Particle accelerator" means a machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of one MeV.

"Permit" means a permit issued by the Executive Secretary in accordance with the rules adopted by the Board.

"Permitee" means a person who is permitted by the Department in accordance with these rules and the Act.

"Person" means an individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, or another state or political subdivision or agency thereof, and a legal successor, representative, agent or agency of the foregoing.

"Personnel monitoring equipment," see individual monitoring devices.

"Pharmacist" means an individual licensed by this state to practice pharmacy. See Sections 58-17a-101 through 58-17a-801.

"Physician" means an individual licensed by this state to practice medicine and surgery in all its branches. See Sections 58-67-101 through 58-67-803.

"Practitioner" means an individual licensed by this state in the practice of a healing art. Examples would be, physician, dentist, podiatrist, osteopath, and chiropractor.

"Protective apron" means an apron made of radiation-attenuating materials used to reduce exposure to radiation.

"Public dose" means the dose received by a member of the public from sources of radiation from licensed or registered operations. Public dose does not include occupational dose or doses received from background radiation, from any medical administration the individual has received, from exposure to

individuals administered radioactive material and released in accordance with Section R313-32-75, or from voluntary participation in medical research programs.

"Pyrophoric material" means any liquid that ignites spontaneously in dry or moist air at or below 130 degrees Fahrenheit (54.4 degrees Celsius) or any solid material, other than one classed as an explosive, which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited and, when ignited, burns so vigorously and persistently as to create a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

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KEY: definitions, units, inspections, exemptions

[March 10, 2000]2001

19-3-104

Notice of Continuation March 26, 1997

19-3-108



**Environmental Quality, Radiation
Control**

R313-14

Violations and Escalated Enforcement

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23668

FILED: 04/16/2001, 13:43

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Include permit holders as entities covered under the control of Rule R313-14.

SUMMARY OF THE RULE OR CHANGE: Include site Access Permit holders in the list of entities subject to Rule R313-14.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-3-109 and 19-3-111

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--Changes in this rule define and clarify only.

❖LOCAL GOVERNMENTS: None--Changes in this rule define and clarify only.

❖OTHER PERSONS: None--Changes in this rule define and clarify only.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--the change is for clarification and definition of the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on Utah businesses, this change if to provide clarification and definition of the rule only.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Radiation Control
Building 2, State of Utah Office Park
168 North 1950 West
PO Box 144850
Salt Lake City, UT 84114-4850, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
William Craig at the above address, by phone at (801) 536-4250, by FAX at (801) 533-4097, or by Internet E-mail at brcraig@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: William J. Sinclair, Director

**R313. Environmental Quality, Radiation Control.
R313-14. Violations and Escalated Enforcement.
R313-14-1. Introduction and Purpose.**

(1) The purpose of the radiation control inspection and compliance program is to assure the radiological safety of the public, radiation workers, and the environment by:

- (a) ensuring compliance with Utah Radiation Control rules or license conditions;
- (b) obtaining prompt correction of violations;
- (c) deterring future violations; and
- (d) encouraging improvement of licensee, permittee or registrant performance, including the prompt identification, reporting, and correction of potential safety problems.

(2) Consistent with the purpose of the radiation control inspection and compliance program, prompt and vigorous enforcement action shall be taken when dealing with licensees, permittees or registrants who fail to demonstrate adherence to these rules. Enforcement action is dependent on the circumstances of the case and may require that discretion be exercised after consideration of these standards. Sanctions have been designed to ensure that a licensee, permittee or registrant does not deliberately profit from violations of the Utah Radiation Control rules.

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R313-14-3. Definitions.

As used in R313-14, the following definitions apply:

- (1) "Material False Statement" means a statement that is false by omission or commission and is relevant to the regulatory process.
- (2) "Requirement" means a legally binding requirement such as a statute, rule, license condition, permit, registration, technical specification, or order.
- (3) "Similar" means those violations which could have been reasonably expected to have been prevented by the licensee's, permittee's or registrant's corrective action for a previous violation.

(4) "Willfulness" means the deliberate intent to violate or falsify, and includes careless disregard for requirements. Acts which do not rise to the level of careless disregard are not included in this definition.

R313-14-15. Enforcement Actions.

This Section describes the enforcement sanctions available to the Executive Secretary and specifies the conditions under which they are to be used.

(1) Notice of Violation

(a) A Notice of Violation is a written notice setting forth one or more violations of a legally binding requirement. The notice normally requires the licensee, permittee or registrant to provide a written statement describing:

- (i) corrective steps which have been taken by the licensee, permittee or registrant and the results achieved;
- (ii) corrective steps which shall be taken to prevent recurrence; and
- (iii) the date when full compliance will be achieved.

(b) The Executive Secretary may require responses to Notices of Violation to be under oath. Normally, responses under oath may be required only in connection with civil penalties and orders.

(c) A Notice of Violation is used by the Executive Secretary as the method for formalizing the existence of a violation. The Notice may be the only enforcement action taken or it may be used as a basis for other enforcement actions. Licensee, permittee or registrant initiative for self-identification and correction of problems is encouraged. The Executive Secretary shall not generally issue Notices of Violation for a violation that meets the five following tests:

- (i) it was identified by the licensee, permittee or registrant;
- (ii) it fits in Severity Level IV or V;
- (iii) it was reported, in writing, to the Executive Secretary;
- (iv) it was or will be corrected, including measures to prevent recurrence, within a reasonable time; and
- (v) it was not a violation that could reasonably be expected to have been prevented by the licensee's, permittee's or registrant's corrective action for a previous violation.

(d) Licensees, permittees or registrants are not ordinarily cited for violations resulting from matters outside of their control, like equipment failures that were not avoidable by reasonable quality assurance measures or management controls. Generally however, licensees, permittees and registrants are held responsible for the acts of their employees. Accordingly, the rules should not be construed to excuse personal errors.

(2) Civil Penalty.

(a) A civil penalty is a monetary penalty that may be imposed for violation of Utah Radiation Control Rules or lawful orders issued by the Executive Secretary. Civil penalties are designed to emphasize the need for lasting remedial action and to deter future violations. Generally, civil penalties are imposed for Severity Level I violations, are imposed for Severity Level II violations, in the absence of mitigating circumstances, are considered for Severity Level III violations, and may be imposed for Severity Level IV and V violations that are similar to previous violations for which the licensee, permittee or registrant failed to take effective corrective action.

(b) The level of a civil penalty is established so that a penalty does not exceed \$5,000 per violation. Except as modified by

provision of the next paragraphs, the base civil penalties are as follows:

TABLE

Severity Level I Violations	\$5,000
Severity Level II Violations	\$4,000
Severity Level III Violations	\$2,500
Severity Level IV Violations	\$ 750
Severity Level V Violations	\$ 250

(i) Comprehensive licensee, permittee or registrant programs for detection, correction and reporting of problems that may constitute, or lead to, violation of regulatory requirements are important and consideration may be given for effective internal audit programs. When licensees, permittees or registrants find, report, and correct a violation expeditiously and effectively, the Executive Secretary may apply adjustment factors to reduce or eliminate a civil penalty.

(ii) Ineffective licensee, permittee or registrant programs for problem identification or correction are unacceptable. In cases involving willfulness, flagrant violations, repeated poor performance in an area of concern, or serious breakdown in management controls, the Executive Secretary may apply the full enforcement authority.

(iii) The Executive Secretary may review the proposed civil penalty case on its own merits and adjust the civil penalty upward or downward appropriately. After considering the relevant circumstances, adjustments to these values may be made for the factors identified below:

(A) Reduction of the civil penalty may be given when a licensee, permittee or registrant identifies the violation and promptly reports, in writing, the violation to the Executive Secretary. No consideration will be given to this factor if the licensee, permittee or registrant does not take immediate action to correct the problem upon discovery.

(B) Recognizing that corrective action is always required to meet regulatory requirements, the promptness and extent to which the licensee, permittee or registrant takes corrective action, including actions to prevent recurrence, may be considered in modifying the civil penalty to be assessed.

(C) Reduction of the civil penalty may be given for prior good performance in the general area of concern.

(D) The civil penalty may be increased as much as 50% for cases where the licensee, permittee or registrant had prior knowledge of a problem as a result of an internal audit, or specific Executive Secretary or industry notification, and had failed to take effective preventive steps.

(E) The civil penalty may be increased as much as 50% where multiple examples of a particular violation are identified during the inspection period.

(c) A violation of a continuing nature shall, for the purposes of calculating the proposed civil penalty, be considered a separate violation for each day of its continuance. A continuing violation is not considered a repeat violation. In the event a violation is repeated within five years, the scheduled amount of the civil penalty may be increased 25%; and for repeat violations of Severity Levels II and III, the penalty may not be avoided by compliance. Other rights and procedures are not affected by the repeat violation.

(d) Payment of civil penalties shall be made within 30 working days of receipt of a Notice of Violation and Notice of Proposed Imposition of a Civil Penalty. An extension may be given when extenuating circumstances are shown to exist. Payment shall be made by check, payable to the Division of Radiation Control and mailed to the Division at the address shown with the Notice of Violation.

(3) Orders.

(a) An Order is a written directive to modify, suspend, or revoke a license, permit or registration; to cease and desist from a given practice or activity; or to take other action that may be necessary.

(b) Modification Orders are issued when some change in licensee, permittee or registrant equipment, procedures or management control is necessary.

(c) Suspension Orders may be used:

(i) to remove a threat to the public health and safety or the environment;

(ii) when the licensee, permittee or registrant has not responded adequately to other enforcement action;

(iii) when the licensee, permittee or registrant interferes with the conduct of an inspection; or

(iv) for a reason not mentioned above for which license, permit or registration revocation is authorized.

(v) Suspensions may apply to all or part of the regulated activity. Ordinarily, an activity is not suspended, nor is a suspension prolonged for failure to comply with requirements when the failure is not willful or when adequate corrective actions have been taken.

(d) Revocation Orders may be used:

(i) when a licensee, permittee or registrant is unable or unwilling to comply with these rules;

(ii) when a licensee, permittee or registrant refuses to correct a violation;

(iii) when a licensee, permittee or registrant does not respond to a Notice of Violation;

(iv) when a licensee, permittee or registrant does not pay a fee required by the Department; or

(v) for any other reason for which revocation is authorized.

(e) Cease and Desist Orders are used to stop unauthorized activity that has continued despite notification by the Executive Secretary that the activity is unauthorized.

(f) Orders may be made effective immediately, without prior opportunity for hearing, whenever it is determined that the public health, interest, or safety so requires, or when the Order is responding to a violation involving willfulness. Otherwise, a prior opportunity for a hearing is afforded. For cases in which a basis could reasonably exist for not taking the action as proposed, the licensee, permittee or registrant shall be afforded an opportunity to show cause why the Order should not be issued in the proposed manner.

(4) Escalation of Enforcement Sanctions.

(a) In accordance with the provisions of Section 19-3-111 the radioactive material of a person may be impounded. Administrative procedures will be conducted as provided by R313-14-20, prior to disposal of impounded radioactive materials.

(b) Violations of Severity Levels I, II or III are considered to be very serious. If repetitive very serious violations occur, the Executive Secretary may issue Orders in conjunction with other enforcement actions to achieve immediate corrective actions and to deter their recurrence. In accordance with the criteria contained in this section, the Executive Secretary shall carefully consider the circumstances of cases when selecting and applying the appropriate sanctions.

(c) The progression of enforcement actions for repetitive violations may be based on violations under a single license, permit or registration. The actual progression to be used in a particular case may depend on the circumstances. When more than one facility is covered by a single license, permit or registration, the normal progression may be based on repetitive violations under the same license, permit or registration. It should be noted that under some circumstances, for example, where there is common control over some facet of facility operations, repetitive violations may be charged even though the second violation occurred at a different facility or under a different license, permit or registration.

(5) Related Administrative Actions.

(a) In addition to the formal enforcement mechanisms of Notices of Violation and Orders, the Executive Secretary may use administrative mechanisms, like enforcement conferences, bulletins, circulars, information notices, generic letters, and confirmatory action letters as part of the enforcement and regulatory program. Licensees, permittees and registrants are expected to adhere to obligations and commitments resulting from these processes and the Executive Secretary shall, if necessary, issue appropriate orders to make sure that expectation is realized.

(b) Enforcement Conferences are meetings held by the Executive Secretary with licensee, permittee or registrant management to discuss safety, public health, or environmental problems, compliance with regulatory requirements, proposed corrective measures, including schedules for implementation, and enforcement options available to the Executive Secretary.

(c) Bulletins, Circulars, Information Notices, and Generic Letters are written notifications to groups of licensees, permittees or registrants identifying specific problems and calling for or recommending specific actions on their part. Responses to these notifications may be required.

(d) Confirmatory Action Letters are letters confirming a licensee's, permittee's or registrant's agreement to take certain actions to remove significant concerns about health and safety, or the environment.

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KEY: violations, penalties, enforcement

~~[January 10, 1997]~~2001

Notice of Continuation March 26, 1997

19-3-109

19-3-111



Environmental Quality, Radiation Control

R313-26

Generator Site Access Permit Requirements for Accessing Utah Radioactive Waste Disposal Facilities

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 23669

FILED: 04/16/2001, 13:43

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Implements new Utah Code Section 19-3-106.4 (H.B. 370 in 2001 legislative session).

(**DAR Note:** H.B. 370 is found at 2001 Utah Laws 314 and is effective as of April 30, 2001.)

SUMMARY OF THE RULE OR CHANGE: Implements requirements for radioactive waste generator site access.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-3-106.4

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--Fees collected from generators will cover program costs.

❖LOCAL GOVERNMENTS: None--No impacts on local governments as they have no regulatory authority in this matter.

❖OTHER PERSONS: Total annual program cost is anticipated to be \$160,000. Small quantity generators disposing less than 1,000 ft³ of Radioactive waste annually will be assessed a fee of \$500. Approximately 10 generators will be affected. Large quantity generators disposing more than 1,000 ft³ of Radioactive waste annually will be assessed a fee of \$1,300. Approximately 100 generators will be affected. Radioactive Waste Brokers will be assessed an annual fee of \$5,000. Approximately five generators will be affected.

COMPLIANCE COSTS FOR AFFECTED PERSONS: \$500 to \$5,000 dollars per year per permit holder.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no impact on Utah businesses as all fees are paid by permittees outside the State of Utah.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Radiation Control
Building 2, State of Utah Office Park

168 North 1950 West
 PO Box 144850
 Salt Lake City, UT 84114-4850, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

William Craig at the above address, by phone at (801) 536-4250, by FAX at (801) 533-4097, or by Internet E-mail at bcraig@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: William J. Sinclair, Director

R313. Environmental Quality, Radiation Control.

R313-26. Generator Site Access Permit Requirements for Accessing Utah Radioactive Waste Disposal Facilities.

R313-26-1. Purpose and Scope.

The purpose of this rule is to establish procedures, criteria, and terms and conditions upon which the Executive Secretary issues permits to generators for accessing a land disposal facility located within the State. This rule also contains requirements for shippers. The requirements of Rule R313-26 are in addition to, and not in substitution for, other applicable requirements of these rules.

R313-26-2. Definitions.

As used in Rule R313-26, the following definitions apply:

"Broker" means a person who performs one or more of the following functions for a generator: arranges for transportation of the radioactive waste; collects or consolidates shipments of radioactive waste; or processes radioactive waste in some manner. "Broker" does not include a carrier whose sole function is to transport the radioactive waste.

"Disposal" means the isolation of wastes from the biosphere by placing them in a land disposal facility.

"Generator" means a person who:

(a) possesses any material or component;

(i) that contains radioactivity or is radioactively contaminated; and

(ii) for which the person foresees no further use; and

(b) transfers the material or component to:

(i) a commercial radioactive waste treatment or disposal facility; or

(ii) a broker.

"Generator Site Access Permit" means an authorization to deliver radioactive wastes to a land disposal facility located within the State.

"Land disposal facility" has the same meaning as that given in Section R313-25-2.

"Manifest" means the document, as defined in Appendix G of 10 CFR 20, used for identifying the quantity, composition, origin, and destination of radioactive waste during its transport to a disposal facility.

"Packager" means broker as defined in Section R313-26-2.

"Radioactive waste" means any material that contains radioactivity or is radioactively contaminated and is intended for ultimate disposal at a licensed land disposal facility in Utah.

"Shipper" means the person who offers radioactive waste for transportation, typically consigning this type of waste to a broker or land disposal facility.

R313-26-3. Generator Site Access Permits.

A generator or broker shall obtain a Generator Site Access Permit from the Executive Secretary before transferring radioactive waste to a land disposal facility in Utah.

(1) Generator Site Access Permit applications shall be filed on a form prescribed by the Executive Secretary.

(2) Applications shall be received by the Executive Secretary at least 30 days prior to any shipments being delivered to a land disposal facility in Utah.

(3) Each Generator Site Access Permit application shall include a certification to the Executive Secretary that the shipper shall comply with all applicable State or Federal laws, administrative rules and regulations, licenses, or license conditions of the land disposal facility regarding the packaging, transportation, storage, disposal and delivery of radioactive wastes.

(4) Generator Site Access Permit fees shall be assessed annually by the Executive Secretary based on the following classifications:

(a) Generators shipping more than 1000 cubic feet of radioactive waste annually to a land disposal facility in Utah.

(b) Generators shipping less than 1000 cubic feet of radioactive waste annually to a land disposal facility in Utah.

(c) Brokers shipping radioactive waste to a land disposal facility in Utah.

(5) Generator Site Access Permits shall be valid for a maximum of one year from the date of issuance. The Executive Secretary may modify individual Generator Site Access Permit terms and prorate the annual fees accordingly for administrative purposes.

(6) Generator Site Access Permits may be renewed by filing a new application with the Executive Secretary. To ensure timely renewal, generators and brokers shall submit applications, for Generator Site Access Permit renewal, a minimum of 30 days prior to the expiration date of their Generator Site Access Permit.

(7) Generator Site Access Permit fees are not refundable.

(8) Generator Site Access Permits are not transferable.

(9) The number of Generator Site Access Permits required by each generator shall be determined by the following requirements:

(a) Generators who own multiple facilities within the same state may apply for one Generator Site Access Permit, provided the same contact person within the generator's company shall be responsible for responding to the Executive Secretary for matters pertaining to the waste shipments.

(b) Facilities which are owned by the same generator and located in different states shall obtain separate Generator Site Access Permits.

(c) Persons who both generate and broker wastes shall obtain separate Generator Site Access Permits.

R313-26-4. Shipper's Requirements.

(1) The shipper shall provide the Executive Secretary a copy of the Nuclear Regulatory Commission's "Uniform Low Level

Radioactive Waste Manifest" for shipments consigned for disposal within Utah.

(2) The manifest shall be delivered not less than 72 hours prior to shipment departure nor more than thirty days prior to shipment departure.

(3) The generator's and broker's Generator Site Access Permit numbers shall be documented on the manifest.

(4) Generators and brokers shall ensure that all Generator Site Access Permits are current prior to shipment of waste to a land disposal facility located in the state, and that the waste will arrive at the land disposal facility prior to the expiration date of the Generator Site Access Permits.

(5) A broker shall ensure all radioactive waste contained within a shipment accepted for disposal at a land disposal facility in the state is traceable to the original generators and states, regardless of whether the waste is shipped directly from the point of generation to the disposal facility, or shipped through a broker.

R313-26-5. Land Disposal Facility Licensee Requirements.

The land disposal facility licensee shall ensure that generators and brokers have a current, unencumbered Generator Site Access Permit prior to receiving a generator's or broker's waste.

R313-26-6. Enforcement.

Generator Site Access Permittees shall be subject to the provisions of Rule R313-14 for violations of federal regulations, state rules or requirements in the current land disposal facility operating license regarding radioactive waste packaging, transportation, labeling, notification, classification, marking, manifesting or description.

**KEY: radioactive waste generator permit
2001**

19-3-106.4



Environmental Quality, Solid and
Hazardous Waste
R315-301-2
Definitions

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 23638
FILED: 04/12/2001, 15:01
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify a definition.

SUMMARY OF THE RULE OR CHANGE: The definition of the term "special waste" is clarified by adding specific references to rules which exempt certain hazardous waste from hazardous waste management requirements and, therefore, allow these wastes to be managed at a permitted solid waste facility.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105, 19-6-108, and 19-6-109
FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 258 (2000)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The current requirements of the rule were clarified but were not changed and the enforcement of the requirements of the rule will not change, therefore, there is no cost or savings impact anticipated to the state budget.

❖LOCAL GOVERNMENTS: The current requirements of the rule were clarified but were not changed, therefore, there is no cost or savings impact anticipated to local governments.

❖OTHER PERSONS: The current requirements of the rule were clarified but were not changed, therefore, there is no cost or savings impact anticipated to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the current requirements of the rule are not changed, it is anticipated that affected persons will experience no additional costs beyond those required by current statutes and rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since the actual requirements of the rule will not change, there will be no additional fiscal impact on businesses beyond that required by current statutes or rules. Dianne R. Neilson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadsworth@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2001

AUTHORIZED BY: Dennis R. Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-301. Solid Waste Authority, Definitions, and General Requirements.

R315-301-2. Definitions.

Terms used in Rules R315-301 through R315-320 are defined in Sections 19-1-103 and 19-6-102. In addition, for the purpose of Rules R315-301 through 320, the following definitions apply.

(1) "Active area" means that portion of a facility where solid waste recycling, reuse, treatment, storage, or disposal operations are being conducted.

(2) "Airport" means a public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.

(3) "Aquifer" means a geological formation, group of formations, or portion of a formation that contains sufficiently saturated permeable material to yield useable quantities of ground water to wells or springs.

(4) "Areas susceptible to mass movement" means those areas of influence, characterized as having an active or substantial possibility of mass movement, where the movement of earth material at, beneath, or adjacent to the landfill unit, because of natural or human-induced events, results in the downslope transport of soil and rock material by means of gravitational influence. Areas of mass movement include landslides, avalanches, debris slides and flows, soil fluction, block sliding, and rock falls.

(5) "Asbestos Waste" means friable asbestos, which is any material containing more than 1% asbestos as determined using the method specified in Appendix A, 40 CFR Part 763.1, 1991 ed., which is adopted and incorporated by reference, that when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

(6) "Background concentration" means the concentration of a contaminant in ground water upgradient or a lateral hydraulically equivalent point from a facility, practice, or activity, and which has not been affected by that facility, practice, or activity.

(7) "Class I landfill" means a municipal landfill or a commercial landfill solely under contract with a local government taking municipal waste generated within the boundaries of the local government and receiving, on a yearly average, over 20 tons of solid waste per day.

(8) "Class II landfill" means a municipal landfill or a commercial landfill solely under contract with a local government taking municipal waste generated within the boundaries of the local government and receiving, on a yearly average, 20 tons, or less, of solid waste per day.

(9) "Class III landfill" means a non-commercial landfill that is to receive only industrial solid waste, but excluding farms and ranches.

(10) "Class IV landfill" means a landfill that is to receive only construction/demolition waste, yard waste, inert waste, dead animals, or upon meeting the requirements of Section 19-6-804 and Section R315-320-3, waste tires and materials derived from waste tires.

(11) "Class V landfill" means a commercial landfill which receives any nonhazardous solid waste for disposal. Class V landfill does not include a landfill that is solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government.

(12) "Closed facility" means any facility that no longer receives solid waste and has completed an approved closure plan, and any landfill on which an approved final cover has been installed.

(13) "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding household waste and industrial wastes.

(14) "Composite liner" means a liner system consisting of two components: the upper component consisting of a synthetic flexible membrane liner, and the lower component consisting of a layer of

compacted soil. The composite liner must have the synthetic flexible membrane liner installed in direct and uniform contact with the compacted soil component and be constructed of specified materials and compaction to meet specified permeabilities.

(15) "Composting" means a method of solid waste management whereby the organic component of the waste stream is biologically decomposed under controlled conditions to a state in which the end product or compost can be safely handled, stored, or applied to the land without adversely affecting human health or the environment.

(16) "Construction/demolition waste" means waste from building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition operations on pavements, houses, commercial buildings, and other structures. Such waste may include: bricks, concrete, other masonry materials, soil, asphalt, rock, untreated lumber, rebar, and tree stumps. It does not include asbestos, contaminated soils or tanks resulting from remediation or clean-up at any release or spill, waste paints, solvents, sealers, adhesives, or similar hazardous or potentially hazardous materials.

(17) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water or soil which is a result of human activity.

(18) "Displaced" or "displacement" means the relative movement of any two sides of a fault measured in any direction.

(19) "Drop box facility" means a facility used for the placement of a large detachable container or drop box for the collection of solid waste for transport to a solid waste disposal facility. The facility includes the area adjacent to the containers for necessary entrance, exit, unloading, and turn-around areas. Drop box facilities normally serve the general public with uncompacted loads and receive waste from off-site. Drop box facilities do not include residential or commercial waste containers on the site of waste generation.

(20) "Energy recovery" means the recovery of energy in a useable form from incineration, burning, or any other means of using the heat of combustion of solid waste that involves high temperature (above 1200 degrees Fahrenheit) processing.

(21) "Existing facility" means any facility that was receiving solid waste on or before July 15, 1993.

(22) "Expansion of a solid waste disposal facility" means any lateral or vertical expansion beyond or above the boundaries outlined in the initial permit application. Where no boundaries were designated in the disposal facility permit, expansion shall apply to all new land purchased or acquired after the effective date of these rules.

(23) "Facility" means all contiguous land, structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal operational units, e.g., one or more incinerators, landfills, container storage areas, or combinations of these.

(24) "Floodplain" means the land which has been or may be hereafter covered by flood water which has a 1% chance of occurring any given year. The flood is also referred to as the base flood or 100-year flood.

(25) "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure or as determined by EPA test method 9095 (Paint Filter Liquids

Test) as provided in EPA Report SW-846 "Test Methods for Evaluating Solid Waste" as revised December (1996) which is adopted and incorporated by reference.

(26) "Garbage" means discarded animal and vegetable wastes and animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, and of such a character and proportion as to be capable of attracting or providing food for vectors. Garbage does not include sewage and sewage sludge.

(27) "Ground water" means subsurface water which is in the zone of saturation including perched ground water.

(28) "Ground water quality standard" means a standard for maximum allowable contamination in ground water as set by Section R315-308-4.

(29) "Hazardous waste" means hazardous waste as defined by Subsection 19-6-102(9) and Section R315-2-3.

(30) "Holocene fault" means a fracture or zone of fractures along which rocks on one side of the fracture have been displaced with respect to those on the other side, which has occurred in the most recent epoch of the Quaternary period extending from the end of the Pleistocene, approximately 11,000 years ago, to the present.

(31) "Household size" means a container for a material or product that is normally and reasonably associated with households or household activities. The containers are of a size and design to hold materials or products generally for immediate use and not for storage, five gallons or less in size.

(32) "Household waste" means any solid waste, including garbage, trash, and sanitary waste in septic tanks, derived from households including single and multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

(33) "Incineration" means a controlled thermal process by which solid wastes are physically or chemically altered to gas, liquid, or solid residues which are also regulated solid wastes. Incineration does not include smelting operations where metals are reprocessed or the refining, processing, or the burning of used oil for energy recovery as described in Rule R315-15.

(34) "Industrial solid waste" means any solid waste generated at a manufacturing or other industrial facility that is not a hazardous waste. Industrial solid waste includes waste resulting from the following manufacturing processes and associated activities: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing or foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste; oil and gas waste; or other waste excluded by Subsection 19-6-102(17)(b).

(35) "Industrial solid waste facility" means a facility which receives only industrial solid waste from on-site or off-site sources for disposal.

(36) "Inert waste" means noncombustible, nonhazardous solid wastes that retain their physical and chemical structure under expected conditions of disposal, including resistance to biological or chemical attack.

(37) "Landfill" means a disposal facility where solid waste is placed in or on the land and which is not a landtreatment facility or surface impoundment.

(38) "Landtreatment, landfarming, or landspreading facility" means a facility or part of a facility where solid waste is applied onto or incorporated into the soil surface for the purpose of biodegradation.

(39) "Lateral expansion of a solid waste disposal facility" means any horizontal expansion of the waste boundaries of an existing landfill cell, module, or unit or expansions not consistent with past normal operating practices.

(40) "Lateral hydraulically equivalent point" means a point located hydraulically equal to a facility and in the same ground water with similar geochemistry such that the ground water, at that point, has not been affected by the facility.

(41) "Leachate" means a liquid that has passed through or emerged from solid waste and may contain soluble, suspended, miscible, or immiscible materials removed from such waste.

(42) "Lithified earth material" means all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include human-made materials, such as fill, concrete and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth surface.

(43) "Lower explosive limit" means the lowest percentage by volume of a mixture of explosive gases which will propagate a flame in air at 25 degrees Celsius (77 degrees Fahrenheit) and atmospheric pressure.

(44) "Maximum horizontal acceleration in lithified earth material" means the maximum expected [~~horizontal~~]horizontal acceleration depicted on a seismic hazard map, with a 90% or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on site specific seismic risk assessment.

(45) "Municipal landfill" means a landfill that is not for profit and is either owned and operated by a local government or a government entity such as a city, town, county, service district, or an entity created by interlocal agreement of local governments, or is solely under contract with a local government or government entity.

(46) "Municipal solid waste" means household waste, commercial solid waste, and non-hazardous sludge.

(47) "New facility" means any facility that begins receiving solid waste after July 15, 1993.

(48) "Off-site" means any site which is not on-site.

(49) "On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing, as opposed to going along the right-of-way. Property separated by a private right-of-way, which the site owner or operator controls, and to which the public does not have access, is also considered on-site property.

(50) "Operator" means the person, as defined by Subsection 19-1-103(4), responsible for the overall operation of a facility.

(51) "Owner" means the person, as defined by Subsection 19-1-103(4), who owns a facility or part of a facility.

(52) "PCB" or "PCBs" means any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of materials which contain such substances.

(53) "Permeability" means the ease with which a porous material allows water and the solutes contained therein to flow through it. This is usually expressed in units of centimeters per second (cm/sec) and termed hydraulic conductivity. Soils and synthetic liners with a permeability for water of 1×10^{-7} cm/sec or less may be considered impermeable.

(54) "Permit" means the plan approval as required by Subsection 19-6-108(3)(a), or equivalent control document issued by the Executive Secretary to implement the requirements of the Utah Solid and Hazardous Waste Act.

(55) "Pile" means any noncontainerized accumulation of solid waste that is used for treatment or storage.

(56) "Poor foundation conditions" means those areas where features exist which indicate that a natural or human-induced event may result in inadequate foundation support for the structural components of a landfill unit.

(57) "Putrescible" means organic material subject to decomposition by microorganisms.

(58) "Qualified ground water scientist" means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering and has sufficient training and experience in ground water hydrology and related fields as may be demonstrated by state registration, professional certification, or completion of accredited university programs that enable that individual to make sound professional judgements regarding ground water monitoring, contaminant fate and transport, and corrective action.

(59) "Recycling" means extracting valuable materials from the waste stream and transforming or remanufacturing them into usable materials that have a demonstrated or potential market.

(a) Recycling does not include processes that generate such volumes of material that no market exists for the material.

(b) Any part of the waste stream entering a recycling facility and subsequently returned to a waste stream or disposed has the same regulatory designation as the original waste.

(c) Recycling includes the substitution of nonhazardous solid waste fuels for conventional fuels (such as coal, natural gas, and petroleum products) for the purpose of generating the heat necessary to manufacture a product.

(60) "Recyclable materials" means those solid wastes that can be recovered from or otherwise diverted from the waste stream for the purpose of recycling, such as metals, paper, glass, and plastics.

(61) "Run-off" means any rainwater, leachate, or other liquid that has contacted solid waste and drains over land from any part of a facility.

(62) "Run-on" means any rainwater, leachate, or other liquid that drains over land onto the active area of a facility.

(63) "Scavenging" means the uncontrolled removal of solid waste from a facility.

(64) "Seismic impact zone" means an area with a 10% or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull, will exceed 0.10g in 250 years.

(65) "Septage" means a semisolid consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from septic tank systems.

(66) "Sharps" means any discarded or contaminated article or instrument from a health facility that may cause puncture or cuts. Such waste may include needles, syringes, blades, needles with attached tubing, pipettes, pasteurs, broken glass, and blood vials.

(67) "Sludge" means any solid, semisolid, or liquid waste, including grit and screenings generated from a:

(a) municipal, commercial, or industrial waste water treatment plant;

(b) water supply treatment plant;

(c) car wash facility;

(d) air pollution control facility; or

(e) any other such waste having similar characteristics.

(68) "Solid waste disposal facility" means a facility or part of a facility at which solid waste is received from on-site or off-site sources and intentionally placed into or on land and at which waste, if allowed by permit, may remain after closure. Solid waste disposal facilities include landfills, incinerators, and land treatment areas.

(69) "Solid waste incinerator facility" means a facility at which solid waste is received from on-site or off-site sources and is subjected to the incineration process. An incinerator facility that incinerates solid waste for any reason, including energy recovery, volume reduction, or to render it non-infectious, is a solid waste incinerator facility and is subject to Rules R315-301 through 320.

(70) "Special waste" means discarded ~~materials~~ solid waste that ~~which~~ may require special handling or other solid waste that may pose a threat to public safety, human health, or the environment. Special waste may include:

(a) ash[?];

(b) automobile bodies[?];

(c) furniture and appliances[?];

(d) infectious waste[?];

(e) waste tires[?];

(f) dead animals[?];

(g) asbestos[?];

(h) ~~industrial waste;~~ waste[s] exempt from the hazardous waste ~~classifications under the Federal Resource Conservation and Recovery Act, U.S.C., Section 6901, et seq.,~~ regulations under Section R315-2-4;

(i) conditionally exempt small quantity generator hazardous waste as defined by Section R315-2-5;

(j) waste containing PCBs[?];

(k) petroleum contaminated soils[?];

(l) waste asphalt[?]; and

(m) sludge.

(71) "State" means the State of Utah.

(72) "Structural components" means liners, leachate collection systems, final covers, run-on or run-off systems, and any other component used in the construction and operation of a landfill that is necessary for the protection of human health and the environment.

(73) "Surface impoundment or impoundment" means a facility or part of a facility which is a natural topographic depression,

human-made excavation, or diked area formed primarily of earthen materials, although it may be lined with synthetic materials, which is designed to hold an accumulation of liquid waste or waste containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

(74) "Transfer station" means a permanent, fixed, supplemental collection and transportation facility that is staffed by a minimum of one employee of the owner or operator during hours of operation and is used by persons and route collection vehicles to deposit collected solid waste from off-site into a larger transfer vehicle for transport to a solid waste handling or disposal facility.

(75) "Transport vehicle" means a vehicle capable of hauling large amounts of solid waste such as a truck, packer, or trailer that may be used by refuse haulers to transport solid waste from the point of generation to a transfer station or a disposal facility.

(76) "Twenty-five year storm" means a 24-hour storm of such intensity that it has a 4% probability of being [equalled]equaled or exceeded any given year. The storm could result in what is referred to as a 25-year flood.

(77) "Unit boundary" means a vertical surface located at the hydraulically downgradient limit of a landfill unit or other solid waste disposal facility unit which is required to monitor ground water. This vertical surface extends down into the ground water.

(78) "Unstable area" means a location that is susceptible to natural or human induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a facility. Unstable areas can include poor foundation conditions, areas susceptible to mass movements, and karst terrains.

(79) "Vadose zone" means the zone of aeration including soil and capillary water. The zone is bound above by the land surface and below by the water table.

(80) "Vector" means a living animal including insect or other arthropod which is capable of transmitting an infectious disease from one organism to another.

(81) "Washout" means the carrying away of solid waste by waters of a base or 100-year flood.

(82) "Waste tire storage facility" or "waste tire pile" means any site where more than 1,000 waste tires or 1,000 passenger tire equivalents are stored on the ground.

(a) A waste tire storage facility includes:

- (i) whole waste tires used as a fence;
- (ii) whole waste tires used as a windbreak; and
- (iii) waste tire generators where more than 1,000 waste tires are held.

(b) A waste tire storage facility does not include:

- (i) a site where waste tires are stored exclusively in buildings or in trailers;
- (ii) if whole waste tires are stored for five or fewer days, the site of a registered tire recycler or a processor for a registered tire recycler;
- (iii) a permitted solid waste disposal facility that stores whole tires in piles for not longer than one year;
- (iv) a staging area where tires are temporarily placed on the ground, not stored, to accommodate activities such as sorting, assembling, or loading or unloading of trucks; or
- (v) a site where waste tires or material derived from waste tires are stored for five or fewer days and are used for ballast to maintain

covers on agricultural materials or to maintain covers at a construction site or are to be recycled or applied to a beneficial use.

(c) Tires attached to a vehicle are not considered waste tires until they are removed from the vehicle.

(83) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(84) "Yard waste" means vegetative matter resulting from landscaping, land maintenance, and land clearing operations including grass clippings, prunings, and other discarded material generated from yards, gardens, parks, and similar types of facilities. Yard waste does not include garbage, paper, plastic, processed wood, sludge, septage, or manure.

KEY: solid waste management, waste disposal

~~October 5, 2000~~2001

19-6-105

Notice of Continuation April 2, 1998

19-6-108

19-6-109

40 CFR 258



Environmental Quality, Solid and
Hazardous Waste
R315-302
Solid Waste Facility Location
Standards, General Facility
Requirements, and Closure
Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23639

FILED: 04/12/2001, 15:01

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to increase clarity and to add consistency.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to clarify and emphasize that only new solid waste facilities are required to meet the location standards; to be consistent with the requirements of the Waste Tire Recycling Act and Section R315-314-3, the General Facility Requirements of Section R315-302-2 will be applied to Waste Tire Storage Facilities; to be consistent with the specific requirements of Subsection R315-303-4(7), the term "regulated hazardous waste" is changed to "prohibited hazardous waste," and the general term "an operating record" is changed to the specific term "a daily operating record" since some items of information that must be recorded in the operating record

such as the number of vehicles entering the facility and the weights or volumes of waste received must be recorded on a daily basis.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-104, 19-6-105, 19-6-108, and 19-6-109
FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 258 (2000)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The current requirements of the rule were clarified but were not changed and the enforcement of the requirements of the rule will not change, therefore, there is no cost or savings impact anticipated to the state budget.

❖LOCAL GOVERNMENTS: The current requirements of the rule were clarified but were not changed, therefore, there is no cost or savings impact anticipated to local governments.

❖OTHER PERSONS: The current requirements of the rule were clarified but were not changed, therefore, there is no cost or savings impact anticipated to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the current requirements of the rule are not changed, it is anticipated that affected persons will experience no additional compliance costs beyond those required by current statutes and rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since the actual requirements of the rules will not change, there will be no additional fiscal impact on businesses beyond that required by current statutes and rules. Dianne R. Neilson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2001

AUTHORIZED BY: Dennis R. Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-302. Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements.
R315-302-1. Location Standards for Disposal Facilities.

(1) Applicability.

(a) These standards apply to:

(i) Class I, II, and V Landfills;

(ii) Class III Landfills as specified in Rule R315-304;
(iii) Class IV Landfills as specified in Rule R315-305; and
(iv) each new disposal facility and any existing disposal facility seeking facility expansion, including landfills, landtreatment disposal sites, and piles that are to be closed as landfills.

(b) These standards, unless otherwise noted, do not apply to:

(i) an existing facility;

(ii) transfer stations and drop box facilities;

(iii) piles used for storage;

(iv) composting or utilization of sludge or other solid waste on land; or

(v) hazardous waste disposal sites regulated by Rules R315-1 through R315-50 and Rule R315-101.

(2) Location Standards. Each applicable solid waste facility shall be subject to the following location standards.

(a) Land Use Compatibility. No new facility shall be located within:

(i) one thousand feet of a national, state or county park, monument, or recreation area; designated wilderness or wilderness study area; or wild and scenic river area;

(ii) ecologically and scientifically significant natural areas, including wildlife management areas and habitat for threatened or endangered species as designated pursuant to the Endangered Species Act of 1982;

(iii) farmland classified or evaluated as "prime," "unique," or of "statewide importance" by the U.S. Department of Agriculture Soil Conservation Service under the Prime Farmland Protection Act;

(iv) one-fourth mile of:

(A) existing permanent dwellings, residential areas, and other incompatible structures such as schools or churches unless otherwise allowed by local zoning or ordinance; and

(B) historic structures or properties listed or eligible to be listed in the State or National Register of Historic Places;

(v) ten thousand feet of any airport runway end used by turbojet aircraft or within 5,000 feet of any airport runway end used by only piston-type aircraft unless the owner or operator demonstrates that the facility design and operation will not increase the likelihood of bird/aircraft collisions. Every new and existing disposal facility is subject to this requirement. If a new landfill or a lateral expansion of an existing landfill is located within five miles of an airport runway end, the owner or operator must notify the affected airport and the Federal Aviation Administration; or

(vi) areas with respect to archeological sites that would violate Section 9-8-404.

(b) Geology. No new facility or lateral expansion of an existing facility shall be located in a subsidence area, a dam failure flood area, above an underground mine, above a salt dome, above a salt bed, or on or adjacent to geologic features which could compromise the structural integrity of the facility.

(i) Holocene Fault Areas. A new facility or a lateral expansion of an existing facility shall not be located within 200 feet of a Holocene fault unless the owner or operator demonstrates to the Executive Secretary that an alternative setback distance of less than 200 feet will prevent damage to the structural integrity of the unit and will be protective of human health and the environment.

(ii) Seismic Impact Zones. A new facility or a lateral expansion of an existing facility shall not be located in seismic

impact zones unless the owner or operator demonstrates to the satisfaction of the Executive Secretary that all containment structures, including liners, leachate collection systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in lithified earth material for the site.

(iii) Unstable Areas. The owner or operator of an existing facility, a lateral expansion of an existing facility, or a new facility located in an unstable area must demonstrate to the satisfaction of the Executive Secretary that engineering measures have been incorporated into the facility design to ensure that the integrity of the structural components of the facility will not be disrupted. The owner or operator must consider the following factors when determining whether an area is unstable:

(A) on-site or local soil conditions that may result in significant differential settling;

(B) on-site or local geologic or geomorphologic features; and

(C) on-site or local human-made features or events, both surface and subsurface.

(c) Surface Water.

(i) No new facility or lateral expansion of an existing facility shall be located on any public land that is being used by a public water system for water shed control for municipal drinking water purposes, or in a location that could cause contamination to a lake, reservoir, or pond.

(ii) Floodplains. No new or existing facility shall be located in a floodplain unless the owner or operator demonstrates to the Executive Secretary that the unit will not restrict the flow of the 100-year flood, reduce the temporary water storage capacity of the floodplain, or result in a washout of solid waste so as to pose a hazard to human health or the environment.

(d) Wetlands. No new facility or lateral expansion of an existing facility shall be located in wetlands unless the owner or operator demonstrates to the Executive Secretary that:

(i) where applicable under section 404 of the Clean Water Act or applicable State wetlands laws, the presumption that a practicable alternative to the proposed landfill is available which does not involve wetlands is clearly rebutted;

(ii) the unit will not violate any applicable state water quality standard or section 307 of the Clean Water Act;

(iii) the unit will not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of a critical habitat protected under the Endangered Species Act of 1973;

(iv) the unit will not cause or contribute to significant degradation of wetlands. The owner or operator must demonstrate the integrity of the unit and its ability to protect ecological resources by addressing the following factors:

(A) erosion, stability, and migration potential of native wetland soils, muds, and deposits used to support the unit;

(B) erosion, stability, and migration potential of dredged and fill materials used to support the unit;

(C) the volume and chemical nature of the waste managed in the unit;

(D) impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste;

(E) the potential effects of catastrophic release of waste to the wetland and the resulting impacts on the environment; and

(F) any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected;

(v) to the extent required under section 404 of the Clean Water Act or applicable state wetlands laws, steps have been taken to attempt to achieve no net loss of wetlands, as defined by acreage and function, by first avoiding impacts to wetlands to the maximum extent practicable as required by Subsection R315-302-1(2)(d)(i), then minimizing unavoidable impacts to the maximum extent practicable, and finally offsetting remaining unavoidable wetland impacts through all appropriate and practicable compensatory mitigation actions (e.g., restoration of existing degraded wetlands or creation of man-made wetlands); and

(vi) sufficient information is available to make a reasonable determination with respect to these demonstrations.

(e) Ground Water.

(i) No new facility or lateral expansion of an existing facility shall be located at a site:

(A) where the bottom of the lowest liner is less than five feet above the historical high level of ground water; or

(B) for a landfill that is not required to install a liner, the lowest level of waste must be at least ten feet above the historical high level of ground water.

(C) If the aquifer beneath a landfill contains ground water which has a Total Dissolved Solids (TDS) of 10,000 mg/l or greater and the landfill is constructed with a composite liner, the bottom of the lowest liner may be less than five feet above the historical high level of the ground water.

(ii) No new facility shall be located over a sole source aquifer as designated in 40 CFR 149.

(iii) No new facility shall be located over groundwater classed as IB under Section R317-6-3.3.

(iv) Unless all units of the proposed facility are constructed with a composite liner or other equivalent design approved by the Executive Secretary:

(A) a new facility located above any aquifer containing ground water which has a TDS content below 1,000 mg/l which does not exceed applicable ground water quality standards for any contaminant is permitted only where the depth to ground water is greater than 100 feet; or

(B) a new facility located above any aquifer containing ground water which has a TDS content between 1,000 and 3,000 mg/l and does not exceed applicable ground water quality standards for any contaminant is permitted only where the depth to ground water is 50 feet or greater.

(C) The applicant for the proposed facility will make the demonstration of ground water quality necessary to determine the appropriate aquifer classification.

(v) No new facility shall be located in designated drinking water source protection areas or, if no source protection area is designated, within a distance to existing drinking water wells or springs for public water supplies of 250 days ground water travel time. This requirement does not include on-site operation wells. The applicant for the proposed facility will make the demonstration, acceptable to the Executive Secretary, of hydraulic conductivity and other information necessary to determine the 250 days ground water travel distance.

(vi) Ground Water Exception. Subject to the ground water performance standard stated in Subsection R315-303-3(1), if a solid waste disposal facility is to be located over an area where the ground water has a TDS of 10,000 mg/l or greater, or where there is an extreme depth to ground water, or where there is a natural

impermeable barrier above the ground water, or where there is no ground water, the Executive Secretary may exempt the disposal site, on a site specific basis, from some design criteria and ground water monitoring. Exemption of ground water monitoring may require the owner or operator to make the demonstration stated in Subsection R315-308-1(3).

(3) Exemptions. Exemptions from the location standards with respect to airports, floodplains, wetlands, fault areas, seismic impact zones, and unstable areas cannot be granted. Exemptions from other location standards of this section may be granted by the Executive Secretary on a site specific basis if it is determined that the exemption will cause no adverse impacts to public health or the environment.

(a) No exemption may be granted without application to the Executive Secretary.

(b) If an exemption is granted, a facility may be required to have more stringent design, construction, monitoring program, or operational practice to protect human health or the environment.

(c) All applications for exemptions shall meet the conditions of Section R315-311-3 pertaining to public notice and comment period.

R315-302-2. General Facility Requirements.

(1) Applicability.

(a) Each new landfill, expansion of an existing landfill, energy recovery or incinerator facility, landtreatment disposal site, waste tire storage facility, transfer station, and existing facility applying for a permit or permit renewal shall meet the requirements of ~~[this section]~~ Section R315-302-2.

(b) Any facility which stores waste in piles shall meet the applicable requirements of this section.

(c) Any recycling facility or composting facility subject to the standards of Rule R315-312 shall submit a plan that demonstrates compliance with the applicable standards of Section R315-302-2. This plan does not require Executive Secretary approval.

(d) The requirements of Section R315-302-2 apply to industrial solid waste facilities as specified in Rule R315-304.

(2) Plan of Operation. Each owner or operator shall develop, keep on file, and abide by a plan of operation approved by the Executive Secretary. The plan shall describe the facility's operation and shall convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the Executive Secretary or his authorized representative. The facility must be operated in accordance with the plan or the plan must be so modified with the approval of the Executive Secretary, to allow the facility to operate in accordance with an approved plan. Each plan of operation shall include:

(a) an intended schedule of construction. Facility plan approvals will be reviewed by the Executive Secretary no later than 18 months after the permit is issued and periodically thereafter, to determine if the schedule of construction is reasonably being followed. Failure to comply with the schedule of construction may result in revocation of the plan approval;

(b) a description of on-site solid waste handling procedures during the active life of the facility;

(c) a schedule for conducting inspections and monitoring for the facility;

(d) contingency plans in the event of a fire or explosion;

(e) corrective action programs to be initiated if ground water is contaminated;

(f) contingency plans for other releases, e.g. release of explosive gases or failure of run-off containment system;

(g) a plan to control fugitive dust generated from roads, construction, general operations, and covering the waste;

(h) a description of maintenance of installed equipment including leachate and gas collection systems, and ground water monitoring systems;

(i) procedures for excluding the receipt of ~~[regulated]~~prohibited hazardous waste or ~~[regulated]~~prohibited waste containing PCBs;

(j) procedures for controlling disease vectors;

(k) a plan for an alternative waste handling or disposal system during periods when the solid waste facility is not able to dispose of solid waste, including procedures to be followed in case of equipment breakdown;

(l) closure and post-closure care plans;

(m) cost estimates and financial assurance as required by Subsection R315-309-2(3);

(n) a general training and safety plan for site operators; and

(o) other information pertaining to the plan of operation as required by the Executive Secretary.

(3) Recordkeeping. Each owner or operator shall maintain and keep, on-site or at a location approved by the Executive Secretary, the following permanent records:

(a) ~~[an]~~ a daily operating record, to be completed at the end of each day of operation, that shall contain:

(i) the weights or volumes, number of vehicles entering, and if available, the types of wastes received each day;

(ii) deviations from the approved plan of operation;

(iii) training and notification procedures;

(iv) results of ground water and gas monitoring that may be required; and

(v) an inspection log or summary; and

(b) other records to include:

(i) documentation of any demonstration made with respect to any location standard or exemption;

(ii) any design documentation for the placement or recirculation of leachate or gas condensate into the landfill as allowed by Subsection R315-303-3(2)(b);

(iii) closure and post-closure care plans as required by Subsections R315-302-3(4) and (7);

(iv) cost estimates and financial assurance documentation as required by Subsection R315-309-2(3);

(v) any information demonstrating compliance with Class II Landfill requirements if applicable; and

(vi) other information pertaining to operation, maintenance, monitoring, or inspections as may be required by the Executive Secretary.

(4) Reporting. Each owner or operator of any facility, including a facility performing post-closure care, shall prepare an annual report and place the report in the facility's operating record. The owner or operator of the facility shall submit a copy of the annual report to the Executive Secretary by March 1 of each year for the most recent calendar year or fiscal year of facility operation. The annual report shall cover facility activities during the previous year and must include, at a minimum, the following information:

- (a) name and address of the facility;
- (b) calendar year covered by the report;
- (c) annual quantity, in tons or volume, in cubic yards, and estimated in-place density in pounds per cubic yard of solid waste handled for each type of treatment, storage, or disposal facility, including applicable recycling facilities;
- (d) the annual update of the required financial assurances mechanism pursuant to Subsection R315-309-2(2);
- (e) results of ground water monitoring and gas monitoring; and
- (f) training programs or procedures completed.

(5) Inspections.

(a) The owner or operator shall inspect the facility to prevent malfunctions and deterioration, operator errors, and discharges which may cause or lead to the release of wastes to the environment or to a threat to human health. The owner or operator must conduct these inspections with sufficient frequency, no less than quarterly, to identify problems in time to correct them before they harm human health or the environment. The owner or operator shall keep an inspection log or summary including at least the date and time of inspection, the printed name and handwritten signature of the inspector, a notation of observations made, and the date and nature of any repairs or corrective action. The log or summary must be kept at the facility or other convenient location if permanent office facilities are not on-site, for at least three years from the date of inspection. Inspection records shall be available to the Executive Secretary or his authorized representative upon request.

(b) The Executive Secretary or any duly authorized officer, employee, or representative of the Board may, at any reasonable time and upon presentation of appropriate credentials, enter any solid waste facility and inspect the property, records, monitoring systems, activities and practices, or solid waste being handled for the purpose of ascertaining compliance with ~~[this rule]~~ Rules R315-301 through 320 and the approved plan of operation for the facility.

(i) The inspector may conduct monitoring or testing, or collect samples for testing, to verify the accuracy of information submitted by the owner or operator or to ensure that the owner or operator is in compliance. The owner or operator may request split samples and analysis parameters on any samples collected by the inspector.

(ii) The inspector may use photographic equipment, video camera, electronic recording device, or any other reasonable means to record information during any inspection.

(iii) The results of any inspection shall be furnished promptly to the owner or operator of the facility.

(6) Recording with the County Recorder.

(a) Not later than 60 days after certification of closure, the owner or operator of a solid waste disposal facility shall:

(i) submit plats and a statement of fact concerning the location of any disposal site to the county recorder to be recorded as part of the record of title; and

(ii) submit proof of record of title filing to the Executive Secretary.

(b) Records and plans specifying solid waste amounts, location, and periods of operation may be required by the local zoning authority with jurisdiction over land use and be made available for public inspection.

KEY: solid waste management, waste disposal

~~[November 16, 1998]~~ **2001**

Notice of Continuation April 2, 1998

19-6-104
19-6-105
19-6-108
19-6-109
40 CFR 258

◆ ————— ◆

Environmental Quality, Solid and Hazardous Waste

R315-303-3

Standards for Design

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23640

FILED: 04/12/2001, 15:01

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify certain items and to add consistency.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to be consistent with the requirements of Section R315-302-3 by emphasizing and clarifying that the final cover of a landfill must remain effective and unmodified unless necessary repairs are made or an approved improvement is made; to be consistent with the requirements of Subsections R315-302-3(4)(c) and R315-310-3(1)(b) by clarifying the fact that the design drawings and as built drawings of any engineered structure at a landfill must be signed and sealed by a professional engineer and by setting a reasonable time for the submitting of the as built drawing; and certain points with respect to the performance of an alternative final cover are clarified.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-104, 19-6-105, and 19-6-108

FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 258 (2000)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The current requirements of the rule are clarified but are not changed and the enforcement of the rule will not change, therefore, there is no cost or savings impact anticipated for the state budget.

❖ **LOCAL GOVERNMENTS:** The current requirements of the rule are clarified but are not changed, therefore, there is no cost or savings impact anticipated for local governments.

❖ **OTHER PERSONS:** The current requirements of the rule are clarified but are not changed, therefore, there is no cost or savings impact anticipated for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the current requirements of the rule are not changed, it is anticipated that affected persons will experience no additional costs beyond those required by current statutes and rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since the actual requirements of the rule will not change, there will be no additional fiscal impact on businesses beyond that required by current statutes and rules. Dianne R. Neilson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2001

AUTHORIZED BY: Dennis R. Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-303. Landfilling Standards.

R315-303-3. Standards for Design.

(1) Minimizing Liquids. An owner or operator of a landfill shall minimize liquids admitted to active areas by:

(a) covering according to Subsection R315-303-4(4);

(b) prohibiting the disposal of containerized liquids larger than household size, noncontainerized liquids, sludge containing free liquids, or any waste containing free liquids in containers larger than household size;

(c) designing the landfill to prevent run-on of all surface waters resulting from a maximum flow of a 25-year storm into the active area of the landfill; and

(d) designing the landfill to collect and treat the run-off of surface waters and other liquids resulting from a 25-year storm from the active area of the landfill.

(e) If the owner or operator of a landfill has received a storm water permit as issued by the Utah Division of Water Quality and is meeting the requirements of the permit, the landfill may be exempt, upon approval of the Executive Secretary, from the run-on and run-off control requirements of Subsections R315-303-3(1)(c) and (d).

(2) Leachate Collection Systems.

(a) An owner or operator of a landfill required to install liners shall:

(i) install a leachate collection system sized according to water balance calculations or using other accepted engineering methods either of which shall be approved by the Executive Secretary;

(ii) install a leachate collection system so as to prevent no more than one foot depth of leachate developing at any point in the bottom of the landfill unit; and

(iii) install a leachate treatment system or a pretreatment system, if necessary, in the case of discharge to a municipal water treatment plant.

(b) The returning of leachate to the landfill or the recirculation of leachate in the landfill may be done only in landfills that have a composite liner system or an approved equivalent liner system.

(3) Liner Designs. An owner or operator of a new landfill or a landfill seeking lateral expansion shall use liners of one of the following designs:

(a) Standard Design. The design shall have a composite liner system consisting of two liners and the associated liner protection layers and a drainage system for leachate collection:

(i) an upper liner made of synthetic material with a thickness of at least 60 mils; and

(ii) a lower liner of at least two feet thickness of recompacted clay or other soil material with a permeability of no more than 1×10^{-7} cm/sec having the bottom liner sloped no less than 2% and the side liners sloped no more than 33%, except where construction and operational integrity can be demonstrated at steeper slopes, with the synthetic liner installed in direct and uniform contact with the compacted soil component; or

(b) Alternative Design.

(i) The Executive Secretary may approve an alternative liner design, on a site specific basis, if it can be documented that, under the conditions of location and hydrogeology, the performance standard of Subsection R315-303-2(1) can be met. When approving an alternative liner design, the Executive Secretary shall consider the following factors:

(A) the hydrogeologic characteristics of the facility and surrounding land;

(B) the climatic factors of the area; and

(C) the volume and physical and chemical characteristics of the leachate.

(ii) The liner shall be constructed of at least a three feet thick layer of recompacted clay or other material with a permeability of no greater than 1×10^{-7} cm/sec having the bottom liner sloped no less than 2% and the side liners sloped no more than 33%, except where construction and operational integrity can be demonstrated at steeper slopes; or

(c) Equivalent Design.

(i) The owner or operator may use, as approved by the Executive Secretary, alternative design, operating practices, and location characteristics which will minimize the migration of solid waste constituents or leachate into the ground or surface water which are at least as effective as the liners of Subsections R315-303-3(3)(a) or (b).

(ii) The owner or operator must demonstrate that the standard of Subsection R315-303-2(1) can be met. The demonstration must be approved by the Executive Secretary, and must be based upon:

(A) the hydrogeologic characteristics of the facility and the surrounding land;

(B) the climatic factors of the area;

(C) the volume and physical and chemical characteristics of the leachate;

(D) predictions of contaminate fate and transport in the subsurface that maximize contaminant migration and consider impacts on human health and the environment; or

(d) Stringent Design. When conditions of location, hydrogeology, or waste stream justify, the Executive Secretary may require that the liner of a landfill be constructed to meet standards more stringent than the liner designs of Subsection R315-303-3(3)(a).

(e) Small Landfill Design. Subject to the location standards of Section R315-302-1 and the performance standards of Section R315-303-2, a Class II Landfill may be exempt from the liner, leachate collection system, and ground water monitoring requirements of Rule R315-303.

(i) A Class II Landfill will be approved only if:

(A) there is no evidence of existing ground water contamination; and

(B) the landfill serves a community that has no practicable waste management alternative as determined by the Executive Secretary; and

(C) the landfill is located in an area which receives less than 25 inches of annual precipitation.

(ii) A Class II Landfill may lose the exemption of the small landfill design if at anytime the landfill receives more than 20 tons of solid waste per day, based on an annual average, or has caused ground water contamination.

(f) Design of a Landfill that Accepts No Municipal Waste. Subject to the performance standards of Section R315-303-2:

(i) a landfill that accepts no municipal waste, no conditionally exempt small quantity generator hazardous waste as defined by Section R315-2-5, or no other hazardous waste that is exempt from Section R315-2-4, may be exempt from the liner, leachate collection system, ground water monitoring, and closure requirements of Rule R315-303; or

(ii) a landfill that accepts no municipal waste but accepts conditionally exempt small quantity generator hazardous waste or other exempt hazardous waste, may be exempt from the liner and the leachate collection system requirements of Rule R315-303.

(4) Closure. An owner or operator shall design the landfill so, that at closure, the final cover shall be:

(a) a layer to minimize infiltration, consisting of at least 18 inches of compacted soil, or equivalent with a permeability of 1×10^{-5} cm/sec or less, or equivalent, shall be placed upon the final lifts:

(i) synthetic liners may cover the compacted soil layer, provided that a minimum of either 20 mils reinforced or 40 mils non-reinforced thickness is used;

(ii) in no case shall the cover of the final lifts be more permeable than the bottom liner system or natural subsoils present in the unit; and

(iii) the grade of surface slopes shall not be less than 2%, nor the grade of side slopes more than 33%, except where construction integrity and the integrity of erosion control can be demonstrated at steeper slopes; and

(b) a layer to minimize erosion, consisting of:

(i) at least 6 inches of soil capable of sustaining vegetative growth placed over the compacted soil cover or the artificial liner and seeded with grass, other shallow rooted vegetation or other native vegetation; or

(ii) other suitable material, approved by the Executive Secretary.

(c) The Executive Secretary may approve an alternative final cover design, on a site specific basis, if it can be documented that:

(i) the ~~[infiltration layer]~~ alternative final cover achieves an equivalent reduction in infiltration as ~~[the infiltration layer]~~ specified in Subsection R315-303-3(4)(a); and

(ii) the ~~[erosion layer]~~ alternative final cover provides equivalent protection from wind and water erosion as ~~[the erosion layer]~~ specified in Subsection R315-303-3(4)(b).

(d) In no case shall any modification be made to the final cover, as placed and approved at closure by the Executive Secretary, unless that modification improves the effectiveness of the final cover and is approved by the Executive Secretary or is a necessary repair of the approved final cover.

(5) Gas Control.

(a) An owner or operator shall design each landfill so that explosive gases are monitored quarterly.

(b) If the concentration of these gases ever exceed the standard set in Subsection R315-303-2(2)(a), the owner or operator must:

(i) immediately take all necessary steps to ensure protection of human health and, within 24 hours or the next business day, notify the Executive Secretary;

(ii) within seven days of detection, place in the operating record the explosive gas levels detected and a description of the steps taken to protect human health; and

(iii) within 60 days of detection, implement a remediation plan, that has been approved by the Executive Secretary, for the explosive gas release, place a copy of the plan in the operating record, and notify the Executive Secretary that the plan has been implemented.

(c) Collection and handling of explosive gases shall not be required if it can be shown that the explosive gases will not support combustion.

(d) The Executive Secretary may, on a site specific basis, waive the requirement of monitoring explosive gases at a Class II Landfill. The waiver may be granted after:

(i) considering the characteristics of the landfill and the waste stream accepted;

(ii) taking into account climatic and hydrogeologic conditions of the site; and

(iii) completing a public comment period as specified by Section R315-311-3.

(iv) The Executive Secretary may revoke any waiver from the requirement of monitoring explosive gases if the lack of monitoring explosive gases at the landfill presents a threat to human health or the environment.

(v) The requirement to monitor explosive gases inside buildings at a landfill may not be waived.

(e) A landfill that accepts no municipal waste is exempt from the gas monitoring requirement of Subsection R315-303-3(5)(a).

(6) Design Drawings.

(a) Design drawings and as built drawings of any engineered structure, including landfill liners, leachate collection systems, run-on/run-off control systems, final covers, ground water monitoring systems, and gas collection systems, shall be signed and sealed by a professional engineer registered in the State of Utah.

(b) As built drawings shall be submitted to the Executive Secretary on or before 90 days following the completion of the engineered structure at the landfill.

~~[(6)](7)~~ Other Requirements. An owner or operator shall design each landfill to provide for:

(a) fencing at the property or unit boundary or the use of other artificial or natural barriers to impede entry by the public and large animals. A lockable gate shall be required at the entry to the landfill;

(b) monitoring ground water according to Rule R315-308 using a design approved by the Executive Secretary. The Executive Secretary may also require monitoring of:

- (i) surface waters, including run-off;
- (ii) leachate; and
- (iii) subsurface landfill gas movement and ambient air;

(c) weighing or estimating the tonnage of all incoming waste and recording the tonnage in the facility's operation record;

(d) erecting a sign at the facility entrance that identifies at least the name of the facility, the hours during which the facility is open for public use, unacceptable materials, and an emergency telephone number. Other pertinent information may also be included;

(e) adequate fire protection to control any fires that may occur at the facility. This may be accomplished by on-site equipment or by arrangement made with the nearest fire department;

(f) preventing potential harborage in buildings, facilities, and active areas of rat and other vectors, such as insects, birds, and burrowing animals;

(g) minimizing the size of the unloading area and working face as much as possible, consistent with good traffic patterns and safe operation;

(h) approach and exit roads of all-weather construction, with traffic separation and traffic control on-site and at the site entrance; and

(i) communication, such as telephone or radio, between employees working at the landfill and management offices on-site and off-site to handle emergencies.

KEY: solid waste management, waste disposal
~~May 5, 1999~~2001 **19-6-104**
Notice of Continuation April 2, 1998 **19-6-105**
19-6-108
40 CFR 258



**Environmental Quality, Solid and
Hazardous Waste
R315-304-5
Industrial Landfill Requirements**

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23641
FILED: 04/12/2001, 15:01
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify certain items and to add consistency.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to clarify and be consistent with Sections R315-302-2 and R315-310-3 which require all landfills, including industrial landfills, to operate according to a plan of operation and meet recordkeeping, reporting, inspection, and closure requirements.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-108

FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 257 (2000)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The rule does not affect state entities, therefore, no cost or savings impact is anticipated for the state budget.

❖LOCAL GOVERNMENTS: The rule does not affect local government entities, therefore, no cost or savings impact is anticipated for local governments.

❖OTHER PERSONS: The proposed rule change clarifies and emphasizes that industrial landfills must meet current requirements imposed on all landfills, therefore, no cost or savings impact is anticipated for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the current requirements for industrial landfills are not changed, it is anticipated that affected persons will experience no additional costs beyond those required by current statutes and rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since the actual requirements for industrial landfills will not change, there will be no additional fiscal impact on businesses beyond that required by current statutes and rules. Dianne R. Neilson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2001

AUTHORIZED BY: Dennis R. Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-304. Industrial Solid Waste Landfill Requirements.
R315-304-5. Industrial Landfill Requirements.

(1) Each Class III Landfill shall meet the following applicable general requirements, as determined by the Executive Secretary:

(a) the plan of operation requirements of Subsections R315-302-2(2)(a), (b), (c), (d), (g), (i), (j), (k), (l), (m), (n), and (o); and

(b) the recordkeeping requirements of Subsections R315-302-2(3)(a), (b)(i), (iii), (iv), and (vi); as determined by the Executive Secretary]

(c) the reporting requirements of Subsection R315-302-2(4); and

(d) the inspection requirements of Subsection R315-302-2(5).

(2) Each Class III Landfill shall meet the applicable general requirements for closure and post-closure care of Subsections R315-302-2(6); R315-302-3(2); (3); (4)(a), and (b); (5); (6)(a)(iv) through (vi), (6)(b), and (c); and (7)(a) as determined by the Executive Secretary.

(a) Each Class IIIa Landfill shall meet the closure requirements of Subsection R315-303-3(4).

(b) Each Class IIIb Landfill shall meet the closure requirements of Subsection R315-305-5(5)(b).

(c) If a Class III Landfill is already subject to the closure and post-closure requirements of another Federal or state agency which are as stringent as specified in Subsections R315-304-5(2)(a) or (b), the landfill may be exempt, upon approval of the Executive Secretary, from the closure requirements of Subsections R315-304-5(2)(a) or (b).

(3) Standards for Design.

(a) The owner or operator of a Class III Landfill shall design the landfill to minimize the acceptance of liquids and control storm water run-on/run-off as specified in Subsections R315-303-3(1)(b), (c), and (d).

(b) The owner or operator of a Class III Landfill shall design the landfill to meet the requirements of Subsections R315-303-3(6)(a), (c), (e), (f), (g), (h), and (i) as determined by the Executive Secretary.

(4) Ground Water Monitoring.

(a) The owner or operator of a Class IIIa Landfill shall monitor the ground water beneath the landfill as specified in Rule R315-308.

(b) Subject to the performance standard of Subsection R315-303-2(1), if the owner or operator of a Class IIIa Landfill is monitoring the ground water beneath the landfill and otherwise meeting the requirements of a discharge permit as issued by the Utah Division of Water Quality, the landfill may be exempt, upon approval of the Executive Secretary, from the ground water monitoring requirements of Rule R315-308.

(c) A Class IIIb Landfill is exempt from the ground water monitoring requirements of Rule R315-308.

(5) Standards for Operation.

(a) Each Class IIIa Landfill shall meet the standards of Section R315-303-4 except:

(i) for the requirements of Subsections R315-303-4(2)(f) and R315-303-4(6); and

(ii) may be exempt from the daily cover requirements of Subsection R315-303-4(4) upon the demonstration that an alternate

schedule for the covering of waste at the landfill will not present a threat to human health or the environment.

(b) Each Class IIIb Landfill shall meet the requirements for operation in Subsections R315-305-4(7) and R315-305-5(2) through (4) as determined by the Executive Secretary.

(6) Financial Assurance.

(a) The owner or operator of each Class III Landfill shall establish financial assurance as required by Rule R315-309.

(b) If the owner or operator of a Class III Landfill has financial assurance, in effect and active, that covers the costs of closure and post-closure care of the landfill as required by another Federal or state agency which is as stringent as the requirements of Rule R315-309, the landfill may be exempt, upon approval of the Executive Secretary, from the financial assurance requirements of Rule R315-309.

(7) Permit Requirements.

(a) Each Class III Landfill shall apply for and obtain a permit to operate by meeting the requirements of Rule R315-310.

(b) The contents of a permit application for a Class IIIa Landfill shall be the information required in Section R315-310-4.

(c) The contents of a permit application for a Class IIIb Landfill shall be the information required in Section R315-310-5.

KEY: solid waste management, waste disposal

[January 5, 1999]2001

Notice of Continuation May 2, 1997

19-6-105

19-6-108

40 CFR 257

**Environmental Quality, Solid and
 Hazardous Waste
 R315-305
 Class IV Landfill Requirements**

**NOTICE OF PROPOSED RULE
 (Amendment)**

DAR FILE NO.: 23642

FILED: 04/12/2001, 15:01

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify certain items, add flexibility, and to add consistency.

SUMMARY OF THE RULE OR CHANGE: Citations to the Waste Tire Recycling Act are corrected; the rule is changed to clarify and to be consistent with Subsection R315-303-4(2) which requires a landfill to minimize the acceptance of liquids, to collect scattered litter, and prohibit scavenging; and the flexibility of the rule is increased by allowing the use of an alternative final cover at the closure of a Class IV Landfill.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-104, 19-6-105, 19-6-108, and 19-6-109
 FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 257 (2000)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The rule does not affect state entities, therefore, no cost or savings impact is anticipated for the state budget.

❖LOCAL GOVERNMENTS: Local governments that own or operate a Class IV Landfill may experience an increase in operating costs as a result of minimizing the acceptance of liquids, collecting of scattered litter, and prohibiting scavenging. However, there is the potential to decrease the costs for the closure by allowing an alternative final cover. These cost increases, or savings, cannot be efficiently or accurately estimated because of the great variations in size, location, materials available, and operational practices of the individual Class IV Landfills.

❖OTHER PERSONS: Other persons who own or operate a Class IV Landfill may experience an increase in operating costs as a result of minimizing the acceptance of liquids, collecting of scattered litter, and prohibiting scavenging. However, there is the potential to decrease the costs for the closure by allowing an alternative final cover. These cost increases, or savings, cannot be efficiently or accurately estimated because of the great variations in size, location, materials available, and operational practices of the individual Class IV Landfills.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons who own or operate a Class IV Landfill may experience an increase in compliance costs as a result of minimizing the acceptance of liquids, collecting of scattered litter, and prohibiting scavenging. The increase in cost for minimizing the acceptance of liquids and prohibiting scavenging should be very minor because the landfill can easily add these activities to their normal operations routine. The collection of scattered litter may cost the landfill several thousand dollars each year. However, other state and local regulations require litter containment, therefore, an actual cost increase may not be experienced. There is the potential to decrease the costs for the closure of the landfill with an alternative final cover. These cost increases, or savings, cannot be efficiently or accurately estimated because of the great variations in size, location, materials available, and operational practices of the individual Class IV Landfills.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A businesses that owns or operate a Class IV Landfill may experience a minor increase in operating costs due to being required to minimize liquids, collect scattered litter, and to not allow scavenging. However, these cost increases may be more than offset by the landfill being allowed to use an alternative final cover upon closure. The increase or savings in costs cannot currently be estimated. Dianne R. Neilson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2001

AUTHORIZED BY: Dennis R. Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.**R315-305. Class IV Landfill Requirements.****R315-305-1. Applicability.**

(1) These standards apply to each facility that landfills only:
(a) inert waste, construction/demolition waste, yard waste, dead animals; or

(b) upon meeting the requirements of Section ~~[26-32a-103.5]~~19-6-804 and Subsections R315-320-3(1) or (2), waste tires and material derived from waste tires.

(2) Inert~~[wastes and inert demolition]~~ waste used as road building material~~[s]~~ and fill material are excluded from the requirements of Rule R315-305.

(3) The location, design, and operation standards of Rule R315-305 become effective January 1, 1998 on each Class IV Landfill.

(4) The ground water monitoring standards of Rule R315-305 become effective July 1, 1998 on each Class IV Landfill that is required to monitor the ground water.

R315-305-5. Requirements for Operation.

(1) The owner or operator of a Class IV Landfill shall not accept any other form of waste except construction/demolition waste, yard waste, inert waste, dead animals, or upon meeting the requirements of Section ~~[26-32a-103.5]~~19-6-804 and Subsections R315-320-3(1) or (2), waste tires and material derived from waste tires.

(2) The owner or operator of a Class IV Landfill shall prevent the disposal of unauthorized waste by ensuring that at least one person is on site during hours of operation and shall prevent unauthorized disposal during off-hours by controlling entry, i.e., lockable gate or barrier, when the facility is not open.

(3) The owner or operator of a Class IV Landfill shall:

(a) minimize the size of the working face as required by Subsection R315-303-3(6)(g);~~[and]~~

(b) employ measures to prevent emission of fugitive dusts, when weather conditions or climate indicate that transport of dust off-site is liable to create a nuisance~~[-];~~

(c) meet the requirements of Subsection R315-303-3(1)(a) and (b) to minimize liquids admitted to the landfill;

(d) collect scattered litter as necessary to avoid a fire hazard or anaesthetic nuisance; and

(e) prohibit scavenging.

(4) The owner or operator of a Class IV Landfill shall cover timbers, wood, and other combustible waste with a minimum of six inches of soil, or equivalent, as needed to avoid a fire hazard.

(5) The owner or operator of a Class IV Landfill shall meet the applicable general requirements of closure and post-closure care of Section R315-302-3 as determined by the Executive Secretary.

(a) The owner or operator of a Class IVa Landfill shall meet the specific closure requirements of Subsection R315-303-3(4).

(b) The owner or operator of a Class IVb Landfill shall close the facility by:

(i) leveling the waste to the extent practicable;

(ii) covering the waste with a minimum of two feet of soil, including six inches of topsoil;

(iii) contouring the cover as specified in Subsection R315-303-3(4)(a)(iii); and

(iv) seeding the cover with grass, other shallow rooted vegetation, or other native vegetation or covering in another manner approved by the Executive Secretary to minimize erosion.

(v) The Executive Secretary may approve an alternative final cover design for a Class IVb Landfill if it is documented that the alternative final cover provides equivalent protection from infiltration and erosion as the cover specified in Subsection R315-305-5(5)(b).

KEY: solid waste management, waste disposal
~~March 15, 1999~~ 2001
Notice of Continuation April 2, 1998

19-6-104
19-6-105
19-6-108
19-6-109
40 CFR 257

◆ ————— ◆
**Environmental Quality, Solid and
Hazardous Waste**
R315-306
**Energy Recovery and Incinerator
Standards**

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23643
FILED: 04/12/2001, 15:01
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to update a citation to a federal rule, add consistency, and to require incinerators and energy recovery facilities to provide financial assurance to cover the costs for closure of the facility.

SUMMARY OF THE RULE OR CHANGE: A citation to a federal rule is updated; to be consistent with the specific requirements of Subsection R315-303-4(7), the term "regulated hazardous waste" is changed to "prohibited hazardous waste;" and each energy recovery or incinerator facility must provide financial assurance to cover the costs for closure of the facility.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-104, 19-6-105, and 19-6-108

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 261 (2000)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: State entities that may own or operate an energy recovery or incinerator facility are exempted by Subsection R315-309-1(2) from the financial assurance requirement, therefore, no cost or savings impact is anticipated for the state budget directly for financial assurance. However, there may be a possible savings to the state budget in that no state funds will be required to close a facility that has a financial assurance mechanism in place and active.

❖LOCAL GOVERNMENTS: Local governments that own or operate an energy recovery or incinerator facility may experience a slight increase in cost to provide financial assurance. The increase in cost cannot be efficiently or accurately estimated because of variations in the sizes and closure costs of individual facilities and the variations in costs for the different financial assurance mechanisms that may be used to cover the costs for the closure of the facility.

❖OTHER PERSONS: Other persons who own or operate an energy recovery or incinerator facility may experience a slight increase in cost to provide financial assurance. The increase in cost cannot be efficiently or accurately estimated because of variations in the size and closure costs of individual facilities and the variations in costs for the different financial assurance mechanisms that may be used to cover the costs for the closure of the facility.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Persons who own or operate an energy recovery or incinerator facility may experience a slight increase in cost to provide financial assurance. The increase in cost cannot be estimated because of variations in the sizes and required closure costs of individual facilities. Also, there are great variations in costs for the different financial assurance mechanisms that may be used to cover the costs for the closure of the facility. The other proposed changes to the rule will not affect compliance costs for affected persons because they do not change the actual requirements of the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses who own or operate an energy recovery or incinerator facility may experience a slight increase in cost to provide financial assurance. The increase in cost cannot be estimated because of variations in the sizes and required closure costs of individual facilities and the variations in costs for the different financial assurance mechanisms that may be used. The other proposed changes to the rule will not affect compliance costs for affected persons because they do not change the actual requirements of the rule. Dianne R. Neilson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Solid and Hazardous Waste

Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2001

AUTHORIZED BY: Dennis R. Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-306. Energy Recovery and Incinerator Standards.

R315-306-2. Requirements for Energy Recovery Facilities and Incinerators.

(1) These standards apply to any energy recovery and incinerator facility designed to incinerate more than ten tons of solid waste per day.

(2) An energy recovery and incinerator facility shall be subject to the location standards of Section R315-302-1 with the exception of the following Subsections: R315-302-1(2)(a)(iv) and (v), R315-302-1(2)(e), and R315-302-1(3).

(3) Each owner or operator of an energy recovery facility or incinerator facility shall comply with Section R315-302-2. The submitted plan of operation shall also address alternative storage, or disposal plans for all breakdowns that would result in overfilling the storage facility.

(4) The submitted plan of operation shall also contain a written waste identification plan which shall include identification of the specific waste streams to be handled by the facility, generator waste analysis requirements and procedures, waste verification procedures at the facility, generator certification of wastes shipped as being non-hazardous, and record keeping procedures, including a detailed operating record.

(5) Each energy recovery or incinerator facility shall be surrounded by a fence, trees, shrubbery, or natural features so as to control access and be screened from the view of immediately adjacent neighbors, unless the tipping floor is fully enclosed by a building. Each site shall also have an adequate buffer zone of at least 50 feet from the operating area to the nearest property line in areas zoned residential to minimize noise and dust nuisances.

(6) Solid waste shall be stored temporarily in storage compartments, containers or areas specifically designed to store wastes. Storage of wastes other than in specifically designed compartments, containers or areas is prohibited. Equipment and space shall be provided in the storage and charging areas, and elsewhere as needed, to allow periodic cleaning as may be required to maintain the plant in a sanitary and clean condition.

(7) A composite sample of the ash and residues from each energy recovery or incinerator facility shall be taken according to a sampling plan approved by the Executive Secretary.

(a) The sample shall be analyzed by the U.S. EPA Test Method 1311 as provided in 40 CFR Part 261, Appendix II, [1991]2000 ed., Toxic Characteristics Leaching Procedure (TCLP) to determine if it is hazardous.

(b) If the ash and residues are found to be nonhazardous, they shall be disposed at a permitted landfill or recycled.

(c) If the ash and residues are found to be hazardous, they shall be disposed in a permitted hazardous waste disposal site.

(8) Each energy recovery facility or incinerator must be located, designed, constructed and operated in a manner to comply with appropriate state and local air pollution control authority emission and operating requirements.

(9) An energy recovery facility or incinerator must collect and treat all run-off from the active areas of the site that may result from a 25-year storm event, and divert all run-on for the maximum flow of a 25-year storm around the site.

(10) All-weather roads shall be provided from the public highways or roads, to and within the disposal site and shall be designed and maintained to prevent traffic congestion hazards, dust, and noise pollution.

(11) Access to the energy recovery or incinerator site shall be controlled by means of a complete perimeter fence or other features and gates which shall be locked when an attendant is not at the gate to prevent unauthorized entry of persons or livestock to the facility.

(12) The plan of operation shall include a training program for new employees and annual review training for all employees to ensure safe handling of waste and proper operation of the equipment.

(13) Each owner or operator shall post signs at the facility which indicate the name, hours of operation, necessary safety precautions, types of wastes that are prohibited, and any other pertinent information.

(14) Each owner or operator of an energy recovery or incinerator facility shall be required to provide recycling facilities in a manner equivalent to those specified for landfills in Subsection R315-303-4(6).

(15) Each owner or operator of an energy recovery or incinerator facility shall implement a plan that will inspect loads or take other steps, as approved by the Executive Secretary, to prevent the disposal of ~~regulated~~prohibited hazardous waste or ~~regulated~~prohibited waste containing PCB's in a manner equivalent to those specified for landfills in Subsection R315-303-4(7).

(16) Each owner or operator shall close its energy recovery facility or incinerator by removing all ash, solid waste, and other residues to a permitted facility.

(17) Each owner or operator of an energy recovery or incinerator facility shall provide financial assurance to cover the costs for closure of the facility that meets the requirements of Rule R315-309.

R315-306-3. Requirements for Small Incinerators.

(1) Applicability.

(a) These requirements apply to any incinerator designed to incinerate ten tons, or less, of solid waste per day and incinerator facilities that incinerate solid waste only from on-site sources.

(b) If an incinerator processes 250 pounds, or less, of solid waste per week, the requirements of Section R315-306-3 do not apply and a permit from the Executive Secretary is not required but

the facility may be regulated by other local, state, or federal requirements.

(2) Requirements.

(a) Each owner and operator of an incinerator facility shall comply with Section R315-302-2.

(b) Solid waste shall be stored temporarily only in storage compartments, containers, or areas specifically designed to store wastes. Equipment and space shall be provided in the storage and charging areas, and elsewhere as needed, to allow periodic cleaning as necessary to maintain the plant in a sanitary and clean condition.

(c) Incinerator ash and residues from any incinerator shall be sampled, analyzed, and disposed as specified in Subsection R315-306-2(7).

(d) The owner or operator of the incinerator shall prevent the disposal of ~~regulated~~ prohibited hazardous waste or ~~regulated~~ prohibited waste containing PCB's as specified in Subsection R315-306-2(15).

(e) The incinerator must be designed, constructed and operated in a manner to comply with appropriate state and local air pollution control authority emission and operating requirements.

(f) The plan of operation shall include a training program for new employees and annual review training for all applicable employees to ensure safe handling of waste and proper operation of the equipment.

KEY: solid waste management, waste disposal

~~October 15, 1999~~ 2001

Notice of Continuation April 2, 1998

19-6-104

19-6-105

19-6-108



Environmental Quality, Solid and Hazardous Waste

R315-307-1

Applicability

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23644

FILED: 04/12/2001, 15:01

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify and emphasize that the management of domestic sewage sludge and septage is regulated by the Utah Division of Water Quality.

SUMMARY OF THE RULE OR CHANGE: The land treatment of domestic sewage sludge and septage is exempt from the requirements of Rule R315-307 but is regulated under the requirements of Rule R317-8 and 40 CFR 503 by the Utah Division of Water Quality.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-104, 19-6-105, and 19-6-108

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The rule does not affect state entities, therefore, no cost or savings impact is anticipated for the state budget.

❖LOCAL GOVERNMENTS: Local governments that landtreat domestic sewage sludge or septage will save the costs of obtaining a permit and meeting the operational requirements of the Division of Solid and Hazardous Waste. The aggregate anticipated cost savings can not be efficiently or accurately estimated because of the variations in the sizes of the facilities and the costs associated with receiving a permit from the Division and meeting the applicable operational requirements.

❖OTHER PERSONS: Persons that landtreat domestic sewage sludge or septage will save the costs of obtaining a permit and meeting the operational requirements of the Division of Solid and Hazardous Waste. The aggregate anticipated cost savings can not be efficiently or accurately estimated because of the variations in the sizes of the facilities and the costs associated with receiving a permit from the Division and meeting the applicable operational requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: By being exempt from the requirements of Rule R315-312, affected persons who landtreat domestic sewage or septage on land, may see a one time cost savings of up to \$15,000 to obtain the necessary permit and an annual operational cost savings of up to \$1,500. This estimate includes a permit filing fee to the Division of Solid and Hazardous Waste of \$500 and application review costs by the Division of \$60 per hour.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT

THE RULE MAY HAVE ON BUSINESSES: Businesses that landtreat domestic sewage or septage, may see a one time cost savings of up to \$15,000 to obtain the necessary permit and an annual operational cost savings of up to \$1,500. Dianne R. Neilson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

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Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2001

AUTHORIZED BY: Dennis R. Downs, Director



**R315. Environmental Quality, Solid and Hazardous Waste.
R315-307. Landtreatment Disposal Standards.
R315-307-1. Applicability.**

(1) These standards apply to any facility that engages in the landtreatment, landfarming, or landspreading disposal of solid waste.

(2) These standards do not apply to:

(a) a facility that uses sewage sludge, woodwaste or other primarily organic sludge in recycling operations as specified in Section R315-312-4[-];

(b) agricultural solid wastes resulting from the operation of a farm, including farm animal manure and agricultural residues;

(c) inert waste[or demolition waste; or

(d) industrial solid waste facilities.

(3) The landtreatment of domestic sewage sludge and septage is exempt from the requirements of Rule R315-307 but is regulated under the applicable requirements of Rule R317-8 and 40 CFR 503 by the Utah Division of Water Quality.

~~(4)~~(4) The owner or operator of a landtreatment disposal facility shall meet the standards for performance specified in Subsection R315-303-2.

~~(5)~~(5) The owner or operator of a landtreatment disposal facility shall meet the location standards of Section R315-302-1.

KEY: solid waste management, waste disposal

~~1993~~2001

Notice of Continuation April 20, 1998

19-6-104

19-6-105

19-6-108



**Environmental Quality, Solid and
Hazardous Waste
R315-308-2
Ground Water Monitoring
Requirements**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 23645

FILED: 04/12/2001, 15:14

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify certain items in the process of monitoring the ground water at solid waste disposal facilities.

SUMMARY OF THE RULE OR CHANGE: An incorporated reference is updated; the tracking of ground water samples is clarified; the point that, during detection monitoring, the results of ground water sampling are compared to established background levels is clarified; the fact that, in both detection and assessment monitoring, the number of constituents or the number of sampling events may be increased or decreased is clarified; and a time limit is established for the

completion and the submitting of the statistical analysis of the ground water sampling results.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105

FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 258 (2000)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 258 (2000)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The current requirements of the rule are clarified but not changed and the enforcement of the rule will not change, therefore, no cost or savings impact is anticipated for the state budget.

❖LOCAL GOVERNMENTS: The current requirements of the rule are clarified but not changed, therefore, no cost or savings impact is anticipated for local governments.

❖OTHER PERSONS: The current requirements of the rule are clarified but not changed, therefore, no cost or savings impact is anticipated for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the current requirements of the rule are not changed, affected persons will experience no additional compliance costs beyond those required by current statutes and rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since the actual requirements of the rule are not changed, businesses will experience no additional fiscal impact beyond that required by current statutes and rules. Dianne R. Neilson, Ph.D.

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DIRECT QUESTIONS REGARDING THIS RULE TO:
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THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2001

AUTHORIZED BY: Dennis R. Downs, Director

**R315. Environmental Quality, Solid and Hazardous Waste.
R315-308. Ground Water Monitoring Requirements.
R315-308-2. Ground Water Monitoring Requirements.**

(1) The ground water monitoring system must consist of at least one background or upgradient well and two downgradient

wells, installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer and all hydraulically connected aquifers below the facility, cell, or unit. The downgradient wells shall be designated as the point of compliance and must be installed at the closest practicable distance hydraulically down gradient from the unit boundary not to exceed 150 meters (500 feet) and must also be on the property of the owner or operator:

(a) the upgradient well must represent the quality of background water that has not been affected by leakage from the active area; and

(b) the downgradient wells must represent the quality of ground water passing the point of compliance. Additional wells may be required by the Executive Secretary in complicated hydrogeological settings or to define the extent of contamination detected.

(2) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must allow collection of representative ground water samples. Wells must be constructed in such a manner as to prevent contamination of the samples, the sampled strata, and between aquifers and water bearing strata. All monitoring wells and all other devices and equipment used in the monitoring program must be operated and maintained so that they perform to design specifications throughout the life of the monitoring program.

(3) The ground water monitoring program must include at a minimum, procedures and techniques for:

- (a) well construction and completion;
- (b) decontamination of drilling and sampling equipment;
- (c) sample collection;
- (d) sample preservation and shipment;
- (e) analytical procedures and quality assurance;
- (f) chain of custody control or sample tracking, as approved;

and

(g) procedures to ensure employee health and safety during well installation and monitoring.

(4) Each facility shall have a state certified laboratory complete tests, using methods with appropriate detection levels, as specified in the approved ground water monitoring plan, on samples for the following:

(a) during the first year of facility operation after wells are installed or an alternative schedule as approved by the Executive Secretary, a minimum of eight independent samples from the upgradient and four independent samples from each downgradient well for all parameters listed in Section R315-308-4 to establish background concentrations;

(b) after background levels have been established, a minimum of one sample, semiannually, from each well, background and downgradient, for all parameters listed in Section R315-308-4 as a detection monitoring program;

(i) In the detection monitoring program, the owner or operator must determine ground water quality at each monitoring well on a semiannual basis during the life of an active area, including the closure period, and the post-closure care period.

(ii) The owner or operator must express the ground water quality at each monitoring well in a form appropriate for the determination of statistically significant changes;

(c) field measured pH, water temperature, and water conductivity must accompany each sample collected;

(d) analysis for the heavy metals and the organic constituents from Section R315-308-4 shall be completed on unfiltered samples; and

(e) the Executive Secretary may specify additional or fewer constituents depending upon the nature of the ground water or the waste on a site specific basis considering:

(i) the types, quantities, and concentrations of constituents in wastes managed at the landfill;

(ii) the mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the landfill;

(iii) the detectability of indicator parameters, waste constituents, and reaction products in the ground water; and

(iv) the background concentration or values and coefficients of variation of monitoring parameters or constituents in the ground water.

(f) The following information shall be placed in the facility's operating record and a copy submitted to the Executive Secretary as the ground water monitoring results to be included in the annual report required by Subsection R315-302-2(4)(e):

(i) a report on the procedures, including the quality control/quality assurance, followed during the collection of the ground water samples;

(ii) the results of the field measured parameters required by Subsections R315-308-2(4)(c) and R315-308-2(6);

(iii) a report of the chain of custody and quality control/quality assurance procedures of the laboratory;

(iv) the results of the laboratory analysis of the constituents specified in Section R315-308-4 or an alternative list of constituents approved by the Executive Secretary:

(A) the results of the laboratory analysis shall list the constituents by name and CAS number; and

(B) a list of the detection limits and the test methods used; and

(v) the statistical analysis of the results of the ground water monitoring as required by Subsection R315-308-2(7).

(vi) The results of the ground water monitoring may be submitted in electronic format.

(5) After background constituent levels have been established, a ground water quality protection standard shall be set by the Executive Secretary which shall become part of the ground water monitoring plan. The ground water quality protection standard will be set as follows.

(a) For constituents with background levels below the standards listed in Section R315-308-4, the ground water quality standards of Section R315-308-4 shall be the ground water quality protection standard.

(b) If a constituent is detected and a background level is established but the ground water quality standard for the constituent is not included in Section R315-308-4 or the constituent has a background level that is higher than the value listed in Section R315-308-4 for that constituent, the ground water quality protection standard for that constituent shall be set according to health risk standards.

(6) The ground water monitoring program must include a determination of the ground water surface elevation each time ground water is sampled.

(7) The owner or operator shall use a statistical method for determining whether a significant change has occurred as compared to background. The Executive Secretary will approve such a

method as part of the ground water monitoring plan. Possible statistical methods include:

(a) a parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent;

(b) an analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent;

(c) a tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit;

(d) a control chart approach that gives control limits for each constituent; or

(e) another statistical test method approved by the Executive Secretary.

(8) ~~The~~ For both detection monitoring, as described in Subsection R315-308-2(4), and assessment monitoring, as described in R315-308-2(11), the Executive Secretary may specify additional or fewer sampling and analysis events, no less than annually, depending upon the nature of the ground water or the waste on a site specific basis considering:

(a) lithology of the aquifer and unsaturated zone;

(b) hydraulic conductivity of the aquifer and unsaturated zone;

(c) ground water flow rates;

(d) minimum distance between upgradient edge of the landfill unit and downgradient monitoring well screen (minimum distance of travel); and

(e) resource value of the aquifer.

(9) The owner or operator must determine and report the ground water flow rate and direction in the upper most aquifer each time the ground water is sampled.

(10) If the owner or operator determines that there is a statistically significant ~~change~~ increase over background in any parameter or constituent at any monitoring well at the compliance point, the owner or operator must:

(a) within 14 days of ~~receipt of the sample~~ the completion of the statistical analysis of the sample results and within 30 days of the receipt of the sample results, enter the information in the operating record and notify the Executive Secretary of this finding in writing. The notification must indicate what parameters or constituents have shown statistically significant changes; and

(b) immediately resample the ground water in all monitoring wells, both background and downgradient, or in a subset of wells specified by the Executive Secretary, and determine:

(i) the concentration of all constituents listed in Section R315-308-4, including additional constituents that may have been identified in the approved ground water monitoring plan;

(ii) if there is a statistically significant ~~change such that the established ground water quality protection level has been exceeded~~ increase over background of any parameter or constituent in any monitoring well at the compliance point; and

(iii) notify the Executive Secretary in writing within seven days of ~~receipt of the sample~~ the completion of the statistical analysis of the sample results.

(c) The owner or operator may demonstrate that a source other than the solid waste disposal facility caused the contamination or that the statistically significant change resulted from error in sampling, analysis, statistical evaluation, or natural variation in ground water quality. A report documenting this demonstration must be certified by a qualified ground-water scientist and approved by the Executive Secretary and entered in the operating record. If a successful demonstration is made and documented, the owner or operator may continue monitoring as specified in Subsection R315-308-2(4)(b).

(11) If, after 90 days, a successful demonstration as stipulated in Subsection R315-308-2(10)(c) is not made, the owner or operator must initiate the assessment monitoring program required as follows:

(a) within 14 days of the determination that a successful demonstration is not made, take one sample from each downgradient well and analyze for all constituents listed as Appendix II in 40 CFR Part 258, ~~[1991]~~ 2000 ed., which is adopted and incorporated by reference.

(b) for any constituent detected from Appendix II, 40 CFR Part 258, in the downgradient wells a minimum of ~~eight~~ four independent samples from the upgradient and four independent samples from each downgradient well must be collected, ~~and~~ analyzed, and statistically evaluated to establish background concentration levels for the constituents; and

(c) within 14 days of the ~~receipt of the results of the~~ completion of the statistical analysis of the [samples] sample results and within 30 days of the receipt of the sample results, place a notice in the operation record and notify the Executive Secretary in writing identifying the Appendix II, 40 CFR Part 258, constituents and their concentrations that have been detected as well as background levels. The Executive Secretary shall establish a ground water quality protection standard pursuant to Subsection R315-308-2(5) for any Appendix II, 40 CFR Part 258, constituent detected in the downgradient wells.

(d) The owner or operator shall thereafter resample:

(i) at a minimum, all downgradient wells on a quarterly basis for all constituents in Section R315-308-4, or the alternative list that may have been approved as part of the permit, and for those constituents detected from Appendix II, 40 CFR Part 258; ~~and~~

(ii) the downgradient wells on an annual basis for all constituents in Appendix II, 40 CFR Part 258; and

(iii) statistically analyze the results of all ground water monitoring samples.

(e) The Executive Secretary may specify additional or fewer constituents depending upon the nature of the ground water or the waste on a site specific basis considering:

(i) the types, quantities, and concentrations of constituents in wastes managed at the landfill;

(ii) the mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the landfill;

(iii) the detectability of indicator parameters, waste constituents, and reaction products in the ground water; and

(iv) the background concentration or values and coefficients of variation of monitoring parameters or constituents in the ground water.

(f) If after two consecutive sampling events, the concentrations of all constituents being analyzed in Subsection R315-308-2(11)(d)(i) are shown to be at or below established background values, the owner or operator must notify the Executive Secretary of this finding and may, upon the approval of the Executive Secretary, return to the monitoring schedule and constituents as specified in Subsection R315-308-2(4)(b).

(12) If one or more constituents from Section R315-308-4 or the approved alternative list, or from those detected from Appendix II, 40 CFR Part 258, are detected at statistically significant levels above the ground water quality protection standard as established pursuant to Subsection R315-308-2(5) in any sampling event, the owner or operator must:

(a) within 14 days of the receipt of this finding, place a notice in the operating record identifying the constituents and concentrations that have exceeded the ground water quality standard. Within the same time period, the owner or operator must also notify the Executive Secretary and all appropriate local governmental and local health officials that the ground water quality standard has been exceeded;

(b) characterize the nature and extent of the release by installing additional monitoring wells as necessary;

(c) install at least one additional monitoring well at the facility boundary in the direction of contaminant migration and sample this well and analyze the sample for the constituents in Section R315-308-4 or the approved alternative list and the detected constituents from Appendix II, 40 CFR Part 258; and

(d) notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated off-site as indicated by sampling of wells in accordance with Subsections R315-308-2(12)(b) and (12)(c).

(e) The owner or operator may demonstrate that a source other than the solid waste disposal facility caused the contamination or that the statistically significant change resulted from error in sampling, analysis, statistical evaluation, or natural variation in ground water quality. A report documenting this demonstration must be certified by a qualified ground-water scientist and approved by the Executive Secretary and entered in the operating record. If a successful demonstration is made, documented and approved, the owner or operator may continue monitoring as specified in Subsection R315-308-2(11)(d) or Subsection R315-308-2(11)(e) when applicable.

KEY: solid waste management, waste disposal
~~October 15, 1999~~ **2001** **19-6-105**
Notice of Continuation April 20, 1998 **40 CFR 258**

Environmental Quality, Solid and Hazardous Waste

R315-309-2

General Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23646

FILED: 04/12/2001, 15:14

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify the length of time that financial assurance must be in effect and active to cover the costs of post-closure care at a solid waste disposal facility.

SUMMARY OF THE RULE OR CHANGE: The rule is changed for clarification of the fact that any facility for which financial assurance is required for post-closure care must have a financial assurance mechanism, which will cover the costs of post-closure care, in effect and active until the Executive Secretary determines that the post-closure care is complete.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105

FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 258 (2000)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The rule change does not affect state entities, therefore, no cost or savings impact is anticipated for the state budget.

❖ **LOCAL GOVERNMENTS:** The current requirements of the rule are clarified but not changed, therefore, no cost or savings impact is anticipated for local governments.

❖ **OTHER PERSONS:** The current requirements of the rule are clarified but not changed, therefore, no cost or savings impact is anticipated for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the current requirements of the rule are not changed, affected persons will experience no additional costs beyond those required by current statutes and rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since the actual requirements of the rule are not changed, businesses will experience no additional fiscal impact beyond that required by current statutes and rules. Dianne R. Neilson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

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 Cannon Health Building
 288 North 1460 West
 PO Box 144880
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INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2001

AUTHORIZED BY: Dennis R. Downs, Director

**R315. Environmental Quality, Solid and Hazardous Waste.
 R315-309. Financial Assurance.
 R315-309-2. General Requirements.**

(1) A financial assurance plan, including the assurance mechanism proposed for use, shall be submitted:

- (a) for new facilities, upon initial permit application; and
- (b) for existing facilities, to meet the effective dates specified in Subsection R315-309-1(3).

(2) The financial assurance shall be updated each year as part of the annual report required by Subsection R315-302-2(4) to adjust for inflation or facility modification that would affect closure or post-closure care costs. The annual update of the financial assurance shall be reviewed and must be approved by the Executive Secretary prior to implementation.

(3) Financial assurance cost estimates shall be based on a third party performing closure or post-closure care.

(a) The closure cost estimate shall be based on the most expensive cost to close the largest area of the disposal facility ever requiring a final cover at any time during the active life in accordance with the closure plan and at a minimum must contain the following elements if applicable:

- (i) the cost of obtaining, moving, and placing the cover material;
- (ii) the cost of final grading of the cover material;
- (iii) the cost of moving and placing topsoil on the final cover; and
- (iv) the cost of fertilizing, seeding, and mulching or other approved method.

(b) The post-closure care cost estimate shall be based on the most expensive cost of completing the post-closure care reasonably expected during the post-closure care period and must contain the following elements:

- (i) ground water monitoring, if required, including number of monitor wells, parameters to be monitored, frequency of sampling, and cost per sampling;
- (ii) leachate monitoring and treatment if necessary;
- (iii) gas monitoring and control if required; and
- (iv) cover stabilization which will include an estimate of the area and cost for expected annual work to repair residual settlement, control erosion, or reseed.

(4) Any facility for which financial assurance is required for post-closure care must have a financial assurance mechanism, which will cover the costs of post-closure care, in effect and active until the Executive Secretary determines that the post-closure care is complete.

~~(4)~~(5) Financial assurance for corrective action shall be required only in cases of known releases of contaminants from a facility and shall be a current cost estimate for corrective action based on the most expensive cost of a third party performing the corrective action that may be required.

KEY: solid waste management, waste disposal
[November 16, 1998]2001 **19-6-105**
Notice of Continuation April 20, 1998 **40 CFR 258**



**Environmental Quality, Solid and
 Hazardous Waste**

R315-310

**Permit Requirements for Solid Waste
 Facilities**

**NOTICE OF PROPOSED RULE
 (Amendment)**

DAR FILE NO.: 23647
 FILED: 04/12/2001, 15:14
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify certain items and to add consistency.

SUMMARY OF THE RULE OR CHANGE: The person who may sign a permit application, reports, or other information requested by the Executive Secretary is specified; the schedules for the monitoring of ground water, monitoring landfill gas, and completing inspections during the post-closure care period of a solid waste disposal facility are clarified; since the Utah Solid and Hazardous Waste Control Board has no authority to enforce zoning requirements, all references to zoning are removed from the rule; and to be consistent with Subsection R315-306-2(17), a financial assurance mechanism to cover the costs of closure of an energy recovery or incinerator facility must be included in the permit application.

(DAR Note: The amendment to R316-306 is under DAR No. 23643 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105, 19-6-108, and 19-6-109

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** The current requirements of the rule are clarified but not changed and the enforcement of the rule will not change, therefore, no cost or savings impact is anticipated for the state budget.

❖**LOCAL GOVERNMENTS:** The current requirements of the rule are clarified but not changed, therefore, no cost or savings impact is anticipated for local governments.

❖**OTHER PERSONS:** The current requirements of the rule are clarified but not changed, therefore, no cost or savings impact is anticipated for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the current requirements of the rule are not changed, affected persons will experience no additional compliance costs beyond those required by current statutes and rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since the actual requirements of the rules are not changed, businesses will experience no additional fiscal impact beyond that required by current statutes and rules. Dianne R. Neilson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2001

AUTHORIZED BY: Dennis R. Downs, Director

**R315. Environmental Quality, Solid and Hazardous Waste.
R315-310. Permit Requirements for Solid Waste Facilities.
R315-310-2. Procedures for Permits.**

(1) Prospective applicants may request the Executive Secretary to schedule a pre-application conference to discuss the proposed solid waste facility and application contents before the application is filed.

(2) Any owner or operator who intends to operate a facility subject to the permit requirements must apply for a permit with the Executive Secretary. Two copies of the application, signed by the owner or operator and received by the Executive Secretary are required before permit review can begin.

(3) Applications for a permit must be completed in the ~~form required~~ format prescribed by the Executive Secretary.

(4) An application for a permit, all reports required by a permit, and other information requested by the Executive Secretary shall be signed as follows:

(a) for a corporation: by a principal executive officer of at least the level of vice-president;

(b) for a partnership or sole proprietorship: by a general partner or the proprietor;

(c) for a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official; or

(d) by a duly authorized representative of the person above, as appropriate.

(i) A person is a duly authorized representative only if the authorization is made in writing, to the Executive Secretary, by a person described in Subsections R315-310-2(4)(a), (b), or (c), as appropriate.

(ii) The authorization may specify either a named individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of facility manager, director, superintendent, or other position of equivalent responsibility.

(iii) If an authorization is no longer accurate and needs to be changed because a different individual or position has responsibility for the overall operation of the facility, a new authorization that meets the requirements of Subsections R315-310-2(4)(d)(i) and (iii) shall be submitted to the Executive Secretary prior to or together with any report, information, or application to be signed by the authorized representative.

~~(5)~~(5) Filing Fee and Permit Review Fee.

(a) A filing fee, as required by the Annual Appropriations Act, shall accompany the filing of an application for a permit. The review of the application will not begin until the filing fee is received.

(b) A review fee, as established by the Annual Appropriations Act, shall be charged at an hourly rate for the review of an application. The review fee shall be billed quarterly and shall be due and payable quarterly.

~~(6)~~(6) All contents and materials submitted as a permit application shall become part of the approved permit and shall be part of the operating record of the solid waste disposal facility.

~~(7)~~(7) The owner or operator of a facility shall apply for renewal of the facility's permit every five years.

R315-310-3. General Contents of a Permit Application for a New Facility or a Facility Seeking Expansion.

(1) Each permit application shall contain the following:

(a) the name and address of the applicant, property owner, and responsible party for the site operation;

(b) a general description of the facility accompanied by facility plans and drawings and, except for Class II, IIIb, and IVb Landfills and waste tire storage facilities, unless required by the Executive Secretary, the facility plans and drawings shall be signed and sealed by a professional engineer registered in the State of Utah;

(c) a legal description and proof of ownership, lease agreement, or other mechanism approved by the Executive Secretary of the proposed site, latitude and longitude map coordinates of the facility's front gate, and maps of the proposed facility site including land use and zoning of the surrounding area;

(d) the types of waste to be handled at the facility and area served by the facility;

(e) the plan of operation required by Subsection R315-302-2(2);

(f) the form used to record weights or volumes of wastes received required by Subsection R315-302-2(3)(a)(i);

(g) an inspection schedule and inspection log required by Subsection R315-302-2(5)(a);

(h) the closure and post-closure plans required by Section R315-302-3;

(i) documentation to show that any waste water treatment facility, such as a run-off or a leachate treatment system, is being

reviewed or has been reviewed by the Division of Water Quality; and

(j) a financial assurance plan ~~as set forth in~~ that meets the requirements of Rule R315-309.

(2) Special Requirements for a Commercial Solid Waste Disposal Facility.

(a) The Executive Secretary will require and review the information set forth in Subsections 19-6-108(9) and 19-6-108(10) as part of the permitting process.

(b) Subsection 19-6-108(3)(c) requires that after receiving a permit from the Executive Secretary, commercial solid waste disposal facilities must be approved by the local government, the governor, and the Legislature.

(c) Commercial solid waste disposal facilities solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government are not subject to Subsections R315-310-3(2)(a) and (b).

R315-310-4. Contents of a Permit Application for a New or Expanded Class I, II, III, IV, and V Landfill Facility as Specified.

(1) Each application for a new or expanded landfill shall contain the information required by Section R315-310-3.

(2) Each application shall also contain:

(a) the following maps shall be included in a permit application for a Class I, II, III, IV, and V Landfill:

(i) topographic map of the landfill unit drawn to a scale of 200 feet to the inch containing five foot contour intervals where the relief exceeds 20 feet and two foot contour intervals where the relief is less than 20 feet, showing the boundaries of the landfill unit, ground water monitoring wells, landfill gas monitoring points, and borrow and fill areas; and

(ii) the most recent full size U.S. Geological Survey topographic map, 7-1/2 minute series, if printed, or other recent topographic survey of equivalent detail of the area, showing the waste facility boundary, the property boundary, surface drainage channels, existing utilities, and structures within one-fourth mile of the facility site, and the direction of the prevailing winds.

(b) a permit application for a Class I, II, IIIa, IVa, and V Landfill shall contain a geohydrological assessment of the facility that addresses:

(i) local and regional geology and hydrology, including faults, unstable slopes and subsidence areas on site;

(ii) evaluation of bedrock and soil types and properties, including permeability rates;

(iii) depths to ground water or aquifers;

(iv) direction and flow rate of ground water;

(v) quantity, location, and construction of any private and public wells on the site and within 2,000 feet of the facility boundary;

(vi) tabulation of all water rights for ground water and surface water on the site and within 2,000 feet of the facility boundary;

(vii) identification and description of all surface waters on the site and within one mile of the facility boundary;

(viii) background ground and surface water quality assessment and identification of impacts of the existing facility upon ground and surface waters from landfill leachate discharges;

(ix) calculation of a site water balance; and

(x) conceptual design of a ground water and surface water monitoring system, including proposed installation methods for these devices and where applicable, a vadose zone monitoring plan;

(c) a permit application for a Class I, II, IIIa, IVa, and V Landfill shall contain an engineering report, plans, specifications, and calculations that address:

(i) how the facility will meet the location standards pursuant to Section R315-302-1 including documentation of any demonstration made with respect to any location standard;

(ii) the basis for calculating the facility's life;

(iii) cell design to include liner design, cover design, fill methods, elevation of final cover and bottom liner, and equipment requirements and availability;

(iv) identification of borrow sources for daily and final cover, and for soil liners;

(v) interim and final leachate collection, treatment, and disposal;

(vi) ground water monitoring that meet the requirements of Rule R315-308;

(vii) landfill gas monitoring and control that meet the requirements of Subsection R315-303-3(5);

(viii) design and location of run-on and run-off control systems;

(ix) closure and post-closure design, construction, maintenance, and land use; and

(x) quality control and quality assurance for the construction of any engineered structure or feature, excluding buildings at landfills, at the solid waste disposal facility and for any applicable activity such as ground water monitoring.

(d) a permit application for a Class I, II, III, IV, and V Landfill shall contain a closure plan to address:

(i) closure schedule;

(ii) capacity of site in volume and tonnage;

(iii) final inspection by regulatory agencies; and

(iv) identification of closure costs including cost calculations and the funding mechanism.

(e) a permit application for a Class I, II, III, IV, and V Landfill shall contain a post-closure plan to address, as appropriate for the specific landfill:

(i) site monitoring of:

(A) landfill gas[;] on a quarterly basis until the conditions of either Subsection R315-302-3(7)(b) or Subsection R315-302-3(7)(c) are met;

(B) ground water[;] on a semiannual basis, or other schedule as determined by the Executive Secretary, until the conditions of either Subsection R315-302-3(7)(b) or Subsection R315-302-3(7)(c) are met; and

(C) surface water, if required, on the schedule specified by the Executive Secretary and until the Executive Secretary determines that the monitoring of surface water may be discontinued;

(ii) ~~[changes to record of title, land use, and zoning restrictions]~~ inspections of the landfill by the owner or operator;

(A) for landfills that are required to monitor landfill gas, on a quarterly basis; and

(B) for landfills that are not required to monitor landfill gas, on a semiannual basis;

(iii) maintenance activities to maintain cover and run-on and run-off systems;

(iv) identification of post-closure costs including cost calculations and the funding mechanism;

(v) changes to record of title; and

~~[(v)]~~(vi) list the name, address, and telephone number of the person or office to contact about the facility during the post-closure period.

R315-310-5. Contents of a Permit Application for a New or Expanded Class IV Landfill.

(1) Each application for a Class IV Landfill permit shall contain the information required in Section R315-310-3.

(2) Each application shall also contain an engineering report, plans, specifications, and calculations that address:

(a) the information and maps required by Subsections R315-310-4(2)(a)(i) and (ii);

(b) the design and location of the run-on and run-off control systems;

(c) the information required by Subsections R315-310-4(2)(d) and (e);

~~—(d) the proposed facility's zoning status;~~

~~[(e)]~~(d) the area to be served by the facility; and

~~[(f)]~~(e) how the facility will meet the requirements of Rule R315-305.

(3) Each application for a Class IVa Landfill permit shall also contain the applicable information required in Subsections R315-310-4(2)(b) and (c).

R315-310-6. Contents of a Permit Application for a New or Expanding Landtreatment Disposal Facility.

(1) Each application for a landtreatment disposal facility permit shall contain the information required in Section R315-310-3.

(2) Each application for a permit shall also contain:

(a) a geohydrological assessment of the facility site that addresses all of the factors of Subsection R315-310-4(2)(b);

(b) engineering report, plans, specifications, and calculations that address:

(i) how the proposed facility will meet the location standards pursuant to Section R315-302-1;

(ii) how the proposed facility will meet the standards of Rule R315-307;

(iii) the basis for calculating the facility's life;

(iv) waste analyses and methods to periodically sample and analyze solid waste;

(v) design of interim waste storage facilities;

(vi) design of run-on and run-off control systems;

(vii) a contour map of the active area showing contours to the nearest foot;

(viii) a ground water and surface water monitoring program; and

(ix) access barriers such as fences, gate, and warning signs.

(c) a plan of operation that in addition to the requirements of Section R315-302-2 addresses:

(i) operation and maintenance of run-on and run-off control systems;

(ii) methods of taking ground water samples and for maintaining ground water monitoring systems; and

(iii) methods of applying wastes to meet the requirements of Section R315-307-3.

(d) closure plan to address:

(i) closure schedule;

(ii) capacity of site in volume and tonnage; and

(iii) final inspection by regulatory agencies.

(e) post-closure plan to address:

(i) estimated time period for post-closure activities;

(ii) site monitoring of ground water;

(iii) changes in record of title~~[-land use, and zoning restrictions];~~

(iv) maintenance activities to maintain cover and run-off system;

(v) plans for food-chain crops, if any, being grown on the active areas, after closure; and

(vi) identification of final closure costs including cost calculations and the funding mechanism.

R315-310-7. Contents of a Permit Application for a New or Expanding Energy Recovery or Incinerator Facility.

(1) Each application for a new or expanding energy recovery or incinerator facility permit shall contain the information required in Section R315-310-3.

(2) Each application for a permit shall also contain:

(a) engineering report, plans, specifications, and calculations that address:

~~—(i) the zoning status of the proposed facility;~~

~~[(ii)]~~(i) the design of the storage and handling facilities on-site for incoming waste as well as fly ash, bottom ash, and any other wastes produced by air or water pollution controls; and

~~[(iii)]~~(ii) the design of the incinerator or thermal treader, including charging or feeding systems, combustion air systems, combustion or reaction chambers, including heat recovery systems, ash handling systems, and air pollution and water pollution control systems. Instrumentation and monitoring systems design shall also be included.

(b) an operational plan that, in addition to the requirements of Section R315-302-2, addresses:

(i) cleaning of storage areas as required by Subsection R315-306-2(5);

(ii) alternative storage plans for breakdowns as required in Subsection R315-306-2(3);

(iii) inspections to insure compliance with state and local air pollution laws and to comply with Subsection R315-302-2(5)(a). The inspection log or summary must be submitted with the application;

(iv) how and where the fly ash, bottom ash, and other solid waste will be disposed; and

(v) a program for excluding the receipt of hazardous waste equivalent to requirements specified in Subsection R315-303-4(7).

(c) documentation to show that air pollution and water pollution control systems are being reviewed or have been reviewed by the Division of Air Quality and the Division of Water Quality.

(d) a closure plan to address:

(i) closure schedule~~[-and];~~

(ii) closure costs and a financial assurance mechanism to cover the closure costs;

~~[(iii)]~~(iii) methods of closure and methods of removing wastes, equipment, and location of final disposal; and

~~[(iii)]~~(iv) final inspection by regulator agencies.

KEY: solid waste management, waste disposal
[December 6, 1999]2001 19-6-105
Notice of Continuation April 20, 1998 19-6-108
19-6-109
40 CFR 258



**Environmental Quality, Solid and
Hazardous Waste
R315-312
Recycling and Composting Facility
Standards**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE No.: 23648
FILED: 04/12/2001, 15:14
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to eliminate duplicate regulation and to clarify that the management of domestic sewage sludge and septage is regulated by the Utah Division of Water Quality and to clarify certain other items.

SUMMARY OF THE RULE OR CHANGE: To eliminate duplicate regulation, the composting of domestic sewage sludge, on the site of its generation, and the use of domestic sewage sludge or septage on land is exempt from the requirements of Rule R315-312 but is regulated under the requirements of Rule R317-8 and 40 CFR 503 by the Utah Division of Water Quality; and since the Utah Solid and Hazardous Waste Control Board is not authorized to enforce local requirements, references to planning, zoning, and other local requirements are removed from the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-108

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The requirements of the rule do not affect state entities, therefore, no cost or savings impact is anticipated for the state budget.

❖LOCAL GOVERNMENTS: Local governments that compost domestic sewage sludge on-site or use domestic sewage sludge or septage on land will save the costs of obtaining approval and meeting the requirements of the Division of Solid and Hazardous Waste for these activities. The aggregate anticipated cost savings can not be efficiently or accurately estimated because of the variations in the sizes of the facilities and the costs associated with receiving approval from the Division and meeting the applicable operational requirements.

❖OTHER PERSONS: Persons that compost domestic sewage sludge on-site or use domestic sewage sludge or septage on land will save the costs of obtaining approval and meeting the requirements of the Division of Solid and Hazardous Waste for these activities. The aggregate anticipated cost savings can not be efficiently or accurately estimated because of the variations in the sizes of the facilities and the costs associated with receiving approval from the Division and meeting the applicable operational requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: By being exempt from the requirements of Rule R315-312, affected persons who compost domestic sewage on-site or use domestic sewage or septage on land, may see a one time cost savings of up to \$2,500 to obtain the necessary approval and an annual operational cost savings of up to \$500.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses that compost domestic sewage on-site or use domestic sewage or septage on land, may see a one time cost savings of up to \$2,500 to obtain the necessary approval and an annual operational cost savings of up to \$500. Dianne R. Neilson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, Ut 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2001

AUTHORIZED BY: Dennis R. Downs, Director

**R315. Environmental Quality, Solid and Hazardous Waste.
R315-312. Recycling and Composting Facility Standards.
R315-312-1. Applicability.**

(1) ~~[These]~~The standards of Rule R315-312 apply to any facility engaged in recycling or utilization of solid waste on the land including:

- (a) composting;
- (b) utilization of ~~[sewage sludge, septage and other]~~ organic sludge, other than domestic sewage sludge and septage, and untreated woodwaste[wastes] on land for beneficial use; and
- (c) accumulation of wastes in piles for recycling or utilization.

(2) These standards do not apply to:

(a) animal feeding operations, including dairies, that compost exclusively manure and vegetative material and meet the composting standards of a Comprehensive Nutrient Management Plan;

(b) other composting operations in which waste from on-site is composted and the finished compost is used on-site; or

(c) hazardous waste.

(3) These standards do not apply to any facility that recycles or utilizes solid wastes solely in containers, tanks, vessels, or in any enclosed building, including buy-back recycling centers.

(4) The composting of domestic sewage sludge, on the site of its generation, is exempt from the requirements of Rule R315-312 but is regulated under the applicable requirements of Rule R317-8 and 40 CFR 503 by the Utah Division of Water Quality.

~~(4)~~(5) Effective dates. An existing facility recycling or composting solid waste shall be placed upon a compliance schedule to assure compliance with the requirements of Rule R315-312 on or before a date established by the Executive Secretary.

R315-312-2. Recycling and Composting Requirements.

(1) Any recycling or composting facility shall meet the requirements of Section R315-302-2, and shall submit a general plan of operation and such other information as requested by the Executive Secretary prior to the commencement of any recycling operation.

(2) Each applicable recycling or composting facility shall submit a certification that the facility has, during the past year, operated according to the submitted plan of operation to the Executive Secretary by March 1 of each year.

(3) Any facility storing materials in outdoor piles for the purpose of recycling shall be considered to be disposing of solid waste if:

(a) at least 50% of the material on hand at the beginning of a year at the facility has not been shown to have been recycled by the end of that year and any material has been on-site more than two years unless a longer period is approved by the Executive Secretary; or

(b) ground water or surface water, air, or land contamination has occurred or is likely to occur under current conditions of storage.

(c) Upon a determination by the Executive Secretary or his authorized representative that the limits of Subsection R315-312-2(3)(a) or (b) have been exceeded, the Executive Secretary may require a permit application and issuance of a permit as a solid waste disposal facility.

(4) Any recycling or composting facility may be required to provide financial assurance for clean-up and closure of the site as determined by the Executive Secretary.

(5) Tires stored in piles for the purpose of recycling at a tire recycling facility shall be subject to the requirements of Section R315-314-3.

~~(6) Any recycling or composting facility regulated under this rule shall not conflict with the county comprehensive solid waste management plan.~~

~~(7) Any recycling or composting facility shall comply with applicable local and state laws and rules, including environmental regulations and zoning laws.~~

R315-312-4. Requirements for Use on Land of Sewage Sludge, Woodwaste, and Other Organic Sludge.

(1) Any facility using domestic sewage sludge or septage on land is exempt from the requirements of Section R315-312-4 but is regulated under the applicable requirements of Rule R317-8 and 40 CFR 503 by the Utah Division of Water Quality.

~~(2)~~(2) Any facility using ~~[sewage sludge, untreated woodwaste, and other organic sludge including septage]~~organic sludge, other than domestic sewage sludge or septage, or untreated woodwaste on land shall comply with the recycling standards of Section R315-312-2.

~~(3)~~(3) Only agricultural or silvicultural sites where organic sludge or untreated woodwaste is demonstrated to have soil conditioning or fertilizer value shall be acceptable for use under this subsection, provided that the sludge or woodwaste is applied as a soil conditioner or fertilizer in accordance with accepted agricultural and silvicultural practice.

~~(4)~~(4) A facility using organic sludge or untreated woodwaste on the land in a manner not consistent with the requirements of ~~[this rule]~~Subsection R315-312-4 must meet the standards of Rule R315-307.

KEY: solid waste management, waste disposal

~~October 5, 2000~~2001

19-6-105

Notice of Continuation April 20, 1998

19-6-108



Environmental Quality, Solid and
Hazardous Waste
R315-313
Transfer Stations and Drop Box
Facilities

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23649

FILED: 04/12/2001, 15:14

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Since the Utah Solid and Hazardous Waste Control Board is not authorized to enforce local requirements, the rule is changed to remove all references to local requirements.

SUMMARY OF THE RULE OR CHANGE: References to local zoning and building codes are removed from the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-104, 19-6-105, and 19-6-108

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Current authorized requirements of the rule are not changed, therefore, no cost or savings impact is anticipated for the state government.

❖LOCAL GOVERNMENTS: Current authorized requirements of the rule are not changed, therefore, no cost or savings impact is anticipated for local governments.

❖OTHER PERSONS: Current authorized requirements of the rule are not changed, therefore, no cost or savings impact is anticipated for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the requirements of the rule are not changed, affected persons will experience no additional compliance costs beyond those required by current statutes and rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since the actual requirements of the rule are not changed, businesses will experience no additional fiscal impact beyond that required by current statutes and rules. Dianne R. Neilson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2001

AUTHORIZED BY: Dennis R. Downs, Director

**R315. Environmental Quality, Solid and Hazardous Waste.
R315-313. Transfer Stations and Drop Box Facilities.
R315-313-1. Applicability.**

Any transfer station or drop box facility receiving solid waste from off-site shall meet the requirements of ~~[this rule]~~ Rule R315-313.

R315-313-2. Transfer Station Standards.

(1) Each transfer station shall meet the requirements of Section R315-302-2 and shall submit a plan of operation and such other information as requested by the Executive Secretary for approval prior to construction and operation.

(2) Each transfer station shall be designed, constructed, and operated to:

- (a) be surrounded by a fence, trees, shrubbery, or natural features so as to control access and to screen the station from the view of immediately adjacent neighbors, unless the tipping floor is fully enclosed by a building;
- (b) be sturdy and constructed of easily cleanable materials;

(c) be free of potential rat harborage, and provide effective means to control rodents, insects, birds, and other vermin;

(d) be adequately screened to prevent blowing of litter and to provide effective means to control litter;

(e) provide protection of the tipping floor from wind, rain, or snow;

(f) have an adequate buffer zone around the active area to minimize noise and dust nuisances, and a buffer zone of 50 feet from the active area to the nearest property line in areas zoned residential;]

~~—(g) comply with local zoning and building codes including approved local variances and waivers;]~~

~~[(††)](g)~~ provide pollution control measures to protect surface and ground waters by the construction of:

(i) a run-off collection and treatment system, if required, must be designed and operated to collect and treat a 25-year storm and equipment cleaning and washdown water; and

(ii) a run-on prevention system to divert a 25-year storm event;

~~[(††)](h)~~ provide all-weather access in all vehicular areas;

~~[(††)](i)~~ provide pollution control measures to protect air quality including a prohibition against all burning and the development of odor and dust control plans to be made part of the plan of operation;

~~[(††)](j)~~ prohibit scavenging;

~~[(††)](k)~~ provide attendants on-site during hours of operation;

~~[(††)](l)~~ have a sign that identifies the facility and shows at least the name of the site, hours during which the site is open for public use, materials not accepted at the facility, and other necessary information posted at the site entrance;

~~[(††)](m)~~ have communication capabilities, if available in the facility area, to immediately summon fire, police, or emergency service personnel in the event of an emergency; and

~~[(††)](n)~~ remove all wastes at final closure from the facility to another permitted facility.

KEY: solid waste management

[1993] 2001	19-6-104
Notice of Continuation April 28, 1998	19-6-105
	19-6-108



Environmental Quality, Solid and
Hazardous Waste
R315-314-3
Requirements for a Waste Tire Storage
Facility

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 23650

FILED: 04/12/2001, 15:14

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Since the Utah Solid and Hazardous Waste Control Board is not authorized to enforce local requirements, the rule is changed to remove all references to local requirements.

SUMMARY OF THE RULE OR CHANGE: References to zoning and other local requirements are removed from the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-104, 19-6-105, and 19-6-108

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Current authorized requirements of the rule are not changed, therefore, no cost or savings impact is anticipated for the state budget.

❖LOCAL GOVERNMENTS: Current authorized requirements of the rule are not changed, therefore, no cost or savings impact is anticipated for local governments.

❖OTHER PERSONS: Current authorized requirements of the rule are not changed, therefore, no cost or savings impact is anticipated for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the requirements of the rule are not changed, affected persons will experience no additional compliance costs beyond those required by current statutes and rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since the actual requirements of the rule are not changed, businesses will experience no additional fiscal impact beyond that required by current statutes and rules. Dianne R. Neilson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2001

AUTHORIZED BY: Dennis R. Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.**R315-314. Facility Standards for Piles Used for Storage and Treatment.****R315-314-3. Requirements for a Waste Tire Storage Facility.**

(1) The definitions of Section R315-320-2 are applicable to the requirements for a waste tire storage facility.

(2) No waste tire storage facility may be established, maintained, or expanded until the owner or operator of the waste tire storage facility has obtained a permit from the Executive Secretary. The owner or operator of the waste tire storage facility shall operate the facility in accordance with the conditions of the permit and otherwise follow the permit.

(3) The owner or operator of a waste tire storage facility shall:

(a) submit the following for approval by the Executive Secretary:

(i) the information required in Subsections R315-310-3(1)(a), (b), and (c);

(ii) a plan of operation as required by Subsection R315-302-2(2);

(iii) a plot plan of the storage site showing:

(A) the arrangement and size of the tire piles on the site;

(B) the width of the fire lanes and the type and location of the fire control equipment; and

(C) the location of any on-site buildings and the type of fencing to surround the site;

(iv) a financial assurance plan including the date that the financial assurance mechanism becomes effective; and

(v) a vector control plan;

(b) accumulate tires only in designated areas;

(c) control access to the storage site by fencing;

(d) limit individual tire piles to a maximum of 5,000 square feet of continuous area in size at the base of the pile;

(e) limit the individual tire piles to 50,000 cubic feet in volume or 10 feet in height;

(f) insure that piles be at least 10 feet from any property line or any building and not exceed 6 feet in height when within 20 feet of any property line or building;

(g) provide for a 40 foot fire lane between tire piles that contains no flammable or combustible material or vegetation;

(h) effect a vector control program, if necessary, to minimize mosquito breeding and the harborage of other vectors such as rats or other animals;

(i) provide on-site fire control equipment that is maintained in good working order;

(j) display an emergency procedures plan and inspection approval by the local fire department and require all employees to be familiar with the plan;[

~~(k) obtain an approval or permit from the local fire department, if required, and be in compliance with all applicable environmental and zoning requirements;]~~

~~(k) establish financial assurance for clean-up and closure of the site:~~

(i) in the amount of \$150 per ton of tires stored at the site; and

(ii) in the form of a trust fund, letter of credit, or other mechanism as approved by the Executive Secretary;

[(m)](l) maintain a record of the number of:

- (i) tires received at the site;
- (ii) tires shipped from the site
- (iii) piles of tires at the site; and
- (iv) tires in each pile; and

[(m)](m) meet the applicable reporting requirements of Subsection R315-302-2(4).

(4) Whole Tires Stored in a Tire Fence.

(a) Whole Tires stored in a tire fence are exempt from Subsections R315-314-3(3)(e), (f), and (g) but must:

- (i) obtain a permit from the Executive Secretary as required by Subsection R315-314-3(2);
- (ii) receive approval for establishing, maintaining, or expanding the tire fence from the local government and the local fire department and submit documentation of these approvals to the Executive Secretary; and
- (iii) maintain the fence no more than one tire wide and eight feet high.

(b) An owner of a tire fence may receive a waiver from the requirements of Subsection R315-314-3(4)(a)(i) if the Executive Secretary receives written notice from the owner of the tire fence on or before November 15, 1999 that documents and certifies that:

- (i) the tire fence was in existence prior to October 15, 1999; and
- (ii) no tires have been added to the fence after October 14, 1999.

(5) Each tire recycler, as defined by Subsection 26-32a-103(18), that stores tires in piles prior to recycling shall comply with the following requirements:

(a) if the tire recycler documents that the waste tires are stored for five or fewer days, the tire recycler shall:

- (i) meet the requirements of Subsections R315-314-3(3)(b) through (g); or
- (ii) obtain a waiver from the requirements of Subsections R315-314-3(3)(b) through (g) from the local fire department; or

(b) if the tire recycler does not document that the waste tires are stored for five or fewer days, the tire recycler shall be considered a waste tire storage facility and shall:

- (i) meet the requirements of Subsections R315-314-3(2) and (3); and
- (ii) the amount of financial assurance required by Subsection R315-314-3(3)(l) shall be \$150 per ton of tires held as the average inventory during the preceding year of operation.

KEY: solid waste management, waste disposal
~~[October 15, 1999]~~2001 **19-6-104**
 Notice of Continuation April 28, 1998 **19-6-105**
19-6-108

◆ **Environmental Quality, Solid and Hazardous Waste**
R315-316
Infectious Waste Requirements ◆

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE No.: 23651
 FILED: 04/12/2001, 15:14
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to clarify the storage requirements for infectious waste.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to clarify that, if infectious waste must be stored longer than 7 days, it must be stored at 40 degrees Fahrenheit and must be treated or disposed of within 30 days after collection from the generator.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** The current requirements of the rule are clarified but are not changed, therefore, no cost or savings impact is anticipated for the state budget.

❖**LOCAL GOVERNMENTS:** The current requirements of the rule are clarified but are not changed, therefore, no cost or savings impact is anticipated for local governments.

❖**OTHER PERSONS:** The current requirements of the rule are clarified but are not changed, therefore, no cost or savings impact is anticipated for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the requirements of the rule are not changed, affected persons will experience no additional compliance costs beyond those required by current statutes and rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since the actual requirements of the rule are not changed, businesses will experience no additional fiscal impact beyond that required by current statutes and rules. Dianne R. Neilson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
 Solid and Hazardous Waste
 Cannon Health Building
 288 North 1460 West
 PO Box 144880
 Salt Lake City, UT 84114-4880, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2001

AUTHORIZED BY: Dennis R. Downs, Director

**R315. Environmental Quality, Solid and Hazardous Waste.
R315-316. Infectious Waste Requirements.**

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R315-316-3. Storage and Containment Requirements.

(1) Containment shall be in a manner and location which affords protection from animal intrusion, does not provide a breeding place or a food source for insects and rodents, and minimizes exposure to the public.

(2) Unless all waste is considered infectious and labeled as such, infectious waste shall be segregated by separate containment from other waste at the point of origin.

(3) Except for sharps, infectious waste shall be contained in plastic bags or inside rigid containers. The bags shall be securely tied and the containers shall be securely sealed to prevent leakage or expulsion of solid or liquid wastes during storage, handling, or transport.

(4) Sharps shall be contained for storage, transportation, treatment, and disposal in leak-proof, rigid, puncture-resistant containers which are taped closed or tightly lidded to preclude loss of contents.

(5) All containers used for containment of any infectious waste shall be red or orange, or if containers are not red or orange, shall be clearly identified with the international biohazard sign and one of the following labels: "INFECTIOUS WASTE", "BIOMEDICAL WASTE", or "BIOHAZARD".

(6) If other waste is placed in the same container as regulated infectious waste, then the generator must package, label, and mark the container and its entire contents as infectious waste.

(7) A rigid infectious waste container may be reused for infectious or non-infectious waste if it is thoroughly washed and decontaminated each time it is emptied or if the surfaces of the container have been completely protected from contamination by disposable, unpunctured, or undamaged liners, bags, or other devices that are removed with the infectious waste, and the surface of the liner has not been damaged or punctured.

(8) Storage and containment areas must protect infectious waste from the elements, be ventilated to the outside, be only accessible to authorized persons, and be marked with prominent warning signs on, or adjacent to, the exterior doors or gates. The warning signs shall contain the international biohazard sign and shall state: "CAUTION -- INFECTIOUS WASTE STORAGE AREA -- UNAUTHORIZED PERSONS KEEP OUT" and must be easily read during daylight from a distance of 25 feet.

(9) If infectious waste is stored longer than seven days, it shall be stored at 40 degrees Fahrenheit (5 degrees Celsius), or below, but must be treated or disposed within 30 days.

(10) Compactors, grinders, or similar devices shall not be used to reduce the volume of infectious waste before the waste has been rendered non-infectious unless the device is contained sufficiently to prevent contamination of the surrounding area.

R315-316-5. Infectious Waste Treatment and Disposal Requirements.

(1) Infectious waste shall be treated or disposed as soon as possible but not to exceed 30 days after ~~generation~~collection from a generator, and shall be treated or disposed at a facility with a permit or other form of approval allowing the facility to treat or dispose infectious waste.

(2) Infectious waste may be incinerated in an incinerator.

(a) The incinerator shall comply with the requirements of Rule R315-306 and provide complete combustion of the waste to carbonized or mineralized ash.

(b) A composite sample of the ash and residues from the incinerator shall be taken at least once each year. The sample shall be analyzed by the U.S. EPA Test Method 1311 as provided in 40 CFR Part 261, Appendix II, 1991 ed., Toxic Characteristics Leaching Procedure (TCLP) on parameters determined by the Executive Secretary to determine if it is a hazardous waste. If hazardous, it shall be managed by applicable state regulations.

(3) Infectious waste may be sterilized by heating in a steam sterilizer to render the waste non-infectious.

(a) The operator shall have available and shall certify in writing that he understands written operating procedures for each steam sterilizer, including time, temperature, pressure, type of waste, type of container, closure on container, pattern of loading, water content, and maximum load quantity.

(b) Infectious waste shall be subjected to sufficient temperature, pressure and time to kill *Bacillus stearothermophilus* spores in the center of the waste load being decontaminated.

(c) Unless a steam sterilizer is equipped to continuously monitor and record temperature and pressure during the entire length of each sterilization cycle, each package of infectious waste to be sterilized shall have a temperature sensitive tape or equivalent test material, such as chemical indicators, attached that will indicate if the sterilization temperature and pressure have been reached. Waste shall not be considered sterilized if the tape or equivalent indicator fails to indicate that a temperature of at least 250 degrees Fahrenheit (121 degrees Celsius) was reached during the process.

(d) Each sterilization unit shall be evaluated for effectiveness with spores of *B. stearothermophilus* at least once each 40 hours of operation or each week, whichever is less.

(e) A written log for each load shall be maintained for each sterilization unit which shall contain at a minimum:

(i) the time of day, date, and operator's name;

(ii) the amount and type of infectious waste placed in the sterilizer; and

(iii) the temperature and duration of treatment.

(4) Infectious waste may be discharged to a sewage treatment system that provides secondary treatment of waste but only if the waste is liquid or semi-solid and if approved by the operator of the sewage treatment system.

(5) Infectious waste may be disposed in a permitted Class I, II, or V Landfill. Upon entering the landfill, the transporter of infectious waste shall notify the landfill operator that the load contains infectious waste. The landfill operator shall abide by the following procedures in the disposition and covering of infectious waste:

- (a) place the infectious waste containers at the bottom of the working face with sufficient care to avoid breaking them;
- (b) completely cover the infectious waste immediately with a minimum of 12 inches of earth or waste material containing no infectious waste; and
- (c) not compact the infectious waste until completely covered with 12 inches of earth or waste material containing no infectious waste.
- (6) Other treatment or disposal methods may be used for infectious waste upon approval by the Executive Secretary.

KEY: solid waste management, waste disposal
[1993]2001 **19-6-105**
Notice of Continuation April 28, 1998



**Environmental Quality, Solid and
 Hazardous Waste
 R315-320
 Waste Tire Transporter and Recycler
 Requirements**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 23652
 FILED: 04/12/2001, 15:14
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to implement changes that were made in the Waste Tire Recycling Act (H.B. 115) during the 2001 session of the Utah Legislature.
(DAR Note: H.B. 115 is found at 2001 Utah Laws 165 and will be effective July 1, 2001.)

SUMMARY OF THE RULE OR CHANGE: The definition of the term "crumb rubber" is changed to increase the size of the particles and reduce the amount of wire the particles may contain; the recycling of Utah generated waste tires at an out-of-state location is no longer eligible for partial reimbursement of the recycling costs; and beginning July 1, 2001, only 60% of the costs to remove waste tires from abandoned tire piles or tire piles at a landfill owned by a governmental entity may come from the Waste Tire Recycling Trust Fund.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-819

ANTICIPATED COST OR SAVINGS TO:
 ❖**THE STATE BUDGET:** Counties and municipalities will be required to pay 40% of the cost to transport waste tires from abandoned and landfill tire piles to a waste tire recycler. This

will also result in an equivalent savings to the waste tire trust fund. Based on the removal of an estimated 1,000 tons of waste tires from abandoned or landfill tire piles per year at a cost of \$150 per ton, the aggregate anticipated savings to the state budget would be \$60,000.

❖**LOCAL GOVERNMENTS:** Counties and municipalities will be required to pay 40% of the cost to transport waste tires from abandoned and landfill tire piles to a waste tire recycler. Based on the removal of an estimated 1,000 waste tires from abandoned or landfill tire piles per year at a cost of \$150 per ton, the aggregate anticipated additional cost to local governments would be \$60,000.

❖**OTHER PERSONS:** The proposed rule changes do not affect other persons, therefore, it is anticipated that they will experience no cost or savings impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Counties and municipalities will be required to pay 40% of the cost to transport waste tires from abandoned and landfill tire piles to a waste tire recycler. This cost is estimated to be approximately \$60 per ton (\$150/ton X .40) of waste tires transported from the abandoned or landfill tire piles. The state will realize and equal savings to the waste tire recycling trust fund. Since the requirements for other affected persons are not changed, it is anticipated that they will experience no additional compliance costs beyond those required by current statutes and rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since the actual requirements that affect businesses are not changed, it is anticipated that they will experience no additional fiscal impact beyond that required by current statutes and rules.
 Dianne R. Neilson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 Environmental Quality
 Solid and Hazardous Waste
 Cannon Health Building
 288 North 1460 West
 PO Box 144880
 Salt Lake City, UT 84114-4880, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2001

AUTHORIZED BY: Dennis R. Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-320. Waste Tire Transporter and Recycler Requirements.
R315-320-2. Definitions.

Terms used in Rule R315-320 are defined in Sections R315-301-2 and 19-6-803. In addition, for the purpose of Rule R315-320, the following definitions apply:

(1) "Crumb rubber" means waste tires that have been ground, shredded or otherwise reduced in size such that the particles are less than or equal to ~~[1/4]~~3/8 inch in diameter and are ~~[95%]~~98% wire free by weight.

(2) "Demonstrated market" exists when an "arms length transaction" has been completed and documented which meets the following conditions:

(a) the transaction must be between a willing seller and a willing buyer who have no other business relationship or responsibility to each other; and

(b) the transaction is for reasonable quantity of material derived from waste tires at a price dictated by current economic conditions.

(c) The potential for sale or the possibility of sale does not constitute the demonstration of a market.

(3) "Shredded Tires" means waste tires that have been reduced in size so that the greatest dimension of a minimum of 60 percent, by weight, of the pieces is no more than six inches and the greatest dimension of any piece is no more than 12 inches.

(4) "Vehicle identification number" means the identifying number assigned by the manufacture or by the Utah Motor Vehicle Division of the Utah Tax Commission for the purpose of identifying the vehicle.

(5) "Waste tire generator" means a person, an individual, or an entity that may cause waste tires to enter the waste stream. A waste tire generator may include:

(a) a tire dealer, a car dealer, a trucking company, an owner or operator of an auto salvage yard, or other person, individual, or entity that removes or replaces tires on a vehicle other than their personal vehicle; or

(b) a tire dealer, a car dealer, a trucking company, an owner or operator of an auto salvage yard, a waste tire transporter, a waste tire recycler, a waste tire processor, a waste tire storage facility, or a disposal facility that receives waste tires from a person, an individual, or an entity.

(6) "Waste tire recycling" or "recycling" means:

(a) the burning of waste tires or material derived from waste tires as a fuel for energy recovery; or

(b) the manufacture or creation of an ultimate product that has a demonstrated market where material derived from waste tires is used as a raw material in the manufacture or creation of the ultimate product.

(c) Waste tire recycling does not include ultimate products that:

(i) are used in a beneficial use; or

(ii) do not have a demonstrated market.

R315-320-5. Waste Tire Recycler Requirements.

(1) Each waste tire recycler ~~operating within the state and each waste tire recycler operating outside the state, but~~ requesting the reimbursement allowed by Subsection 19-6-809(1) ~~and Section R315-320-6~~, must apply for, receive, and maintain a current waste tire recycler registration certificate from the Executive Secretary.

(2) Each applicant for registration as a waste tire recycler shall complete a waste tire recycler application form provided by the Executive Secretary and provide the following information:

(a) business name;

(b) address to include:

(i) mailing address; and

(ii) site address if different from mailing address;

(c) telephone number;

(d) owner name;

(e) operator name;

(f) description of the recycling process;

(g) proof that the recycling process described in Subsection R315-320-5(2)(f) is being conducted at the site or that the recycler has the ability to conduct the process at the site;

(h) estimated number of tires to be recycled each year; and

(i) liability insurance information as follows:

(i) name of company issuing policy;

(ii) proof of the amount of liability insurance coverage; and

(iii) term of policy.

(3) A waste tire recycler shall demonstrate financial responsibility for bodily injury and property damage, including bodily injury and property damage to third parties caused by sudden or nonsudden accidental occurrences arising from storing and recycling waste tires. The waste tire recycler shall have and maintain liability coverage for sudden or nonsudden accidental occurrences in the amount of \$300,000.

(4) A waste tire recycler shall notify the Executive Secretary of:

(a) any change in liability insurance coverage within 5 working days of the change; and

(b) any other change in the information provided in Subsection R315-320-5(2) within 20 days of the change.

(5) A registration certificate will be issued to an applicant following the:

(a) completion of the application required by Subsection R315-320-5(2);

(b) presentation of proof of liability coverage as required by Subsection R315-320-5(3); and

(c) payment of the fee as required by the Annual Appropriations Act.

(6) A waste tire recycler registration certificate is not transferable and shall be issued for a term of one year.

(7) If a waste tire recycler is required to be registered by a local government or a local health department:

(a) the waste tire recycler shall pay an annual registration fee to the local government or local health department according to the following schedule:

(i) if up to 200 tons of waste tires are recycled per day, the fee shall not exceed \$300;

(ii) if 201 to 700 tons of waste tires are recycled per day, the fee shall not exceed \$400; or

(iii) if over 700 tons of waste tires are recycled per day, the fee shall not exceed \$500.

(b) The Executive Secretary shall issue a non-transferable registration certificate upon the applicant meeting the requirements of Subsections R315-320-5(2) and (3) and shall not require the payment of the fee specified in Subsection R315-320-5(5)(c).

(c) The registration certificate shall be valid for one year.

(8) Waste tire recyclers must meet the requirements~~[of Rule R315-312 for recycling facilities and the requirements]~~ of Rule R315-314 for waste tires stored in piles.

(9) Revocation of Registration.

(a) The registration of a waste tire recycler may be revoked upon the Executive Secretary finding that:

(i) the activities of the waste tire recycler that are regulated under Section R315-320-5 have been or are being conducted in a way that endangers human health or the environment;

(ii) the waste tire recycler has made a material misstatement of fact in applying for or obtaining a registration as a waste tire recycler;

(iii) the waste tire recycler has made a material misstatement of fact in applying for partial reimbursement under Section 19-6-813;

(iv) the waste tire recycler has violated any provision of the Waste Tire Recycling Act, Title 19 Chapter 6, or any order, approval, or rule issued or adopted under the Act;

(v) the waste tire recycler has failed to meet or no longer meets the requirements of Subsection R315-320-5(1);

(vi) the waste tire recycler has been convicted under Subsection 19-6-822; or

(vii) the waste tire recycler has had the registration from a local government or a local health department revoked.

(b) Registration will not be revoked for submittal of incomplete information required for registration or a reimbursement request if the error was not a material misstatement.

(c) For purposes of Subsection R315-320-5(9)(a), the statements, action, or failure to act of a waste tire recycler shall include the statements, actions, or failure to act of any officer, director, agent, or employee of the waste tire recycler.

(d) The administrative procedures set forth in Rule R315-12 shall govern revocation of registration.

R315-320-6. Reimbursement for Recycling Waste Tires.

~~[(1) Any waste tire recycler who recycles, at an out-of-state location, tires that are generated within the state, may apply for partial reimbursement to the Executive Secretary as provided in Subsection 19-6-809(1)(b):~~

~~— (a) A waste tire recycler who requests partial reimbursement from the Executive Secretary, shall meet the following requirements:~~

~~— (i) the recycler must be registered as required by Section R315-320-5;~~

~~— (ii) the recycling site must be outside the state; and~~

~~— (iii) the recycler must demonstrate that the waste tires or material derived from waste tires were generated within the State of Utah and either~~

~~— (A) removed and transported by a tire transporter registered as required by Section R315-320-4 or a recycler registered as required by Section R315-320-5 or a person as defined in Subsection 19-6-803(28)(c); or~~

~~— (B) generated by a private person who is not a waste tire transporter as defined in Section 19-6-803(28), and that person brings the waste tires to the recycler.~~

~~— (b) A waste tire recycler may claim partial reimbursement for waste tires removed from tire piles subject to:~~

~~— (i) the requirements of Subsections R315-320-6(1) and 19-6-810;~~

~~— (ii) submission of the application as required in Subsection R315-320-6(1)(c); and~~

~~— (iii) the application required in Subsection R315-320-6(1)(c) may be submitted at a minimum of monthly intervals;~~

~~— (c) Any waste tire recycler requesting partial reimbursement from the Executive Secretary, must submit an application on a form designated by the Executive Secretary and shall provide the following:~~

~~— (i) business name;~~

~~— (ii) name of owner;~~

~~— (iii) name of operator;~~

~~— (iv) a brief description of the recycler's business;~~

~~— (v) quantity, in tons, of waste tires or tire derived material for which partial reimbursement is being claimed, accompanied by documentation of recycling;~~

~~— (vi) a description of how waste tires or material derived from waste tires were recycled;~~

~~— (vii) a demonstration that the requirements of Subsection 19-6-809(4) have been met; and~~

~~— (viii) a demonstration that at least 100,000 waste tires will be recycled each year.~~

~~— (d) Any waste tire recycler that applies to the Executive Secretary for partial reimbursement for the recycling of crumb rubber or chipped tires must show that the material has been used as a component in a product.~~

~~— (e) No partial reimbursement will be approved by the Executive Secretary for a recycler that is not the holder of a current, valid waste tire recycler registration at the time of submittal of the request.~~

~~— (2)(1) No partial reimbursement request submitted by a waste tire recycler for the first time, or the first time a specific recycling process or a beneficial use activity is used, shall be approved by a local health department under Section 19-6-813 until the local health department has received from the Executive Secretary a written certification that the Executive Secretary has determined the processing of the waste tires to be recycling or a beneficial use. If the reimbursement request contains sufficient information, the Executive Secretary shall make the recycling or beneficial use determination and notify the local health department in writing within 15 days of receiving the request for determination.~~

~~— (2) No partial reimbursement may be requested or paid for waste tires that were generated in Utah and recycled at an out-of-state location.~~

~~— (3) In addition to any other penalty imposed by law, any person who knowingly or intentionally provides false information required by Section R315-320-5 or Section R315-320-6 shall be ineligible to receive any reimbursement and shall return to the Division of Finance any reimbursement previously received that was obtained through the use of false information.[~~

R315-320-7. Responsibilities of Executive Secretary For Processing Partial Reimbursement Requests for Waste Tires Recycled Outside Utah.

~~— (1) The Executive Secretary, upon receipt of an application for reimbursement, shall:~~

~~— (a) review the application for completeness;~~

~~— (b) if the application is the initial application of the recycler, the Executive Secretary may conduct an on-site investigation of the recycler's operation and waste tire use; and~~

—(c) determine whether the recycler has met the requirements of Subsection R315-320-6(1).

—(2) If the Executive Secretary determines that the recycler qualifies for partial reimbursement, the Executive Secretary shall submit an application for partial reimbursement, a brief report of the results of the investigation, if conducted, and the dollar amount approved for payment to the Division of Finance.]

R315-320-[8]7. Reimbursement for the Removal of an Abandoned Tire Pile or a Tire Pile at a Landfill Owned by a Governmental Entity.

(1) A county or municipality applying for payment for removal of an abandoned tire pile or a tire pile at a county or municipal owned landfill shall meet the requirements of Section 19-6-811.

(2) Determination of Reasonability of a Bid.

(a) The following items shall be submitted to the Executive Secretary when requesting a determination of reasonability of a bid as specified in Subsections 19-6-811[~~(2)~~](4):

[~~(a)~~](i) a copy of the bid;

[~~(b)~~](ii) a letter from the local health department stating that the tire pile is abandoned or that the tire pile is at a landfill owned or operated by a governmental entity; and

[~~(c)~~](iii) a written statement from the county or municipality that the bidding was conducted according to the legal requirements for competitive bidding.

[~~(3)~~](b) The Executive Secretary will review the submitted documentation in accordance with Subsection 19-6-811[~~(2)~~](4) and will inform the county or municipality if the bid is reasonable.

[~~(4)~~](c) A determination of reasonability of the bid will be made and the county or municipality notified within 30 days of receipt of the request by the Executive Secretary.

[~~(5)~~](d) A bid determined to be unreasonable shall not be deemed eligible for reimbursement.

(3) If the Executive Secretary determines that the bid to remove waste tires from an abandoned waste tire pile or from a waste tire pile at a landfill owned or operated by a governmental entity is reasonable and that there are sufficient monies in the trust fund to pay the expected reimbursements for the transportation, recycling, or beneficial use under Section 19-6-809 during the next quarter, the Executive Secretary may authorize a maximum reimbursement of:

(a) 100% of a waste tire transporter's or recycler's costs allowed under Subsection 19-6-811(2) to remove the waste tires from the waste tire pile and deliver the waste tires to a recycler if no waste tires have been added to the waste tire pile after June 30, 2001; or

(b) 60% of a waste tire transporter's or recycler's costs allowed under Subsection 19-6-811(2) to remove the waste tires from the waste tire pile and deliver the waste tires to a recycler if waste tires have been added to the waste tire pile after June 30, 2001.

KEY: solid waste management, waste disposal

[~~July 15, 2000~~]2001

Notice of Continuation March 12, 1999

19-6-105

19-6-819



Human Services, Administration,
Administrative Services, Licensing

R501-12

Foster Care Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23626

FILED: 04/12/2001, 09:54

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule changes are to clean up items and reorganize the rule to be more consistent with other rules of the office and to correct code citations.

SUMMARY OF THE RULE OR CHANGE: Code corrections and reorganization of the rule to be more consistent with other rules of the office.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-2-101 through 62A-2-121

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There is no anticipated cost to the State. The rule has been reorganized and code references were corrected.

❖LOCAL GOVERNMENTS: There is no cost or savings to local government as this rule does not apply to local government.

❖OTHER PERSONS: There is no anticipated cost to other persons, the rule has been reorganized and code references were corrected.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There should be no change in compliance costs for affected persons, this is a reorganization of a rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There would be no impact on business, the changes in this rule are reorganization, clean up and code citation corrections. The changes in this rule should cause no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Human Services
Administration, Administrative Services,
Licensing
Room 303
120 North 200 West
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gayle Sedgwick at the above address, by phone at (801) 538-4242, by FAX at (801) 538-4553, or by Internet E-mail at hsadmin2.gsedgwick@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: Reta D. Oram, Director

R501. Human Services, Administration, Administrative Services, Licensing.

R501-12. Child Foster Care.[Foster Care Rules].

R501-12-1. Authority.

Pursuant to 62A-2-101 et seq., the Office of Licensing, hereinafter referred to as Office, shall license child foster care services according to the following rules. Child foster care services are provided pursuant to 62A-4a-106 for the Division of Child and Family Services, hereinafter referred to as DCFS, and 62A-7-104 for the Division of Youth Corrections, hereinafter referred to as DYC.

R501-12-2. Purpose Statement.

The purpose of these rules is to establish the minimum requirements for licensure of child foster homes and proctor homes for children in the custody of the Department of Human Services, herein after referred to as DHS. Rules applying to child foster care are also applicable to proctor care unless otherwise specified below.

R501-12-3. Definitions.

A. "Child foster care" means the provision of care which is conducive to the physical, social, emotional and mental health of children or adjudicated youth who are temporarily unable to remain in their own homes.

B. "Proctor care" means the provision of foster care for only one youth at a time placed in a licensed foster home. The youth shall be adjudicated to the custody of DYC.

C. "Foster care agency" is any authorized licensed private agency certifying providers for foster care services, hereinafter referred to as Agency.

D. "Child" means anyone under 18 years of age with the exception of DYC proctor care where custody and guardianship may be maintained to 21 years of age.

R501-12-1. Purpose Statement.

~~— The purpose of these standards is to establish the minimum requirements for licensure of foster homes and proctor homes for children in the Department of Human Services, hereinafter referred to as DHS.~~

R501-12-2. Definitions.

~~— A. "Foster care" means the provision of care which is conducive to the physical, social, emotional and mental health of children or adjudicated youth who are temporarily unable to remain in their own homes.~~

~~— B. "Proctor care" means the provision of foster care for only one youth at a time placed in a licensed foster home. The youth shall be adjudicated to the custody of the Division of Youth Corrections.~~

~~— C. "Licensing agent" means a person who is authorized to certify foster and proctor care providers in accordance with the legally approved Foster Care Rules.~~

~~— D. "Foster care agency" is any authorized licensed private agency certifying providers for foster care services.~~

~~— E. "Child" means anyone under 18 years of age with the exception of DYC proctor care where custody and guardianship may be maintained to the age of 21.~~

~~— F. Rules applying to foster care are also applicable to proctor care unless otherwise specified below.~~

R501-12-3. Authority.

~~— Foster care services are provided pursuant to 62A-4a-106 for the Division of Child and Family Services, hereinafter referred to as DCFS, and 62A-7-104 for the Division of Youth Corrections, hereinafter referred to as DYC.]~~

R501-12-4. Licensing and Renewal.

A. Application: An individual or legally married couple age 21 and over may apply to be foster parents. The applicant shall be provided with an application and a copy of the foster care licensing rules[standards]. The application shall require the applicant to list each member of the applicant's household.

B. Medical Information:

1. At the time of application, each potential foster parent shall obtain and submit to the Agency or the Office,[foster care agency or the Office of Licensing, hereinafter referred to as OL,] a medical reference letter, completed by a licensed health care professional, which assesses the physical ability of the individual to be a foster parent. On an annual basis thereafter, each foster parent shall submit a personal health status statement.

2. A psychological examination of a potential or current foster parent may be required by the Office[OL] or the Agency[foster care agency] if there are questions regarding the individual's mental stability which may impair functioning as a foster parent. The psychological examination shall be arranged and paid for by the foster parent.

C. References:

The applicant shall submit the names of individuals not related to the applicant who may be contacted by the Agency or the Office[foster care agency or OL] for a reference. The named individuals, such as neighbors, school personnel, or clergy, shall be knowledgeable of the ability of the potential foster parents to nurture children. Three acceptable letters of reference must be received by the Agency or the Office[foster care agency or OL] before a license will be issued.

D. Background Screening:

1. Pursuant to 62A-2-120, criminal background screening, referred to as CBS,[Criminal Background Screening, referred to as CBS, pursuant to 62A-2-120,] requires that all child foster care applicants or persons 18 years of age or older living in the home must have the criminal background screening successfully completed. This shall be completed on initial home approval and yearly thereafter. In accordance with 62A-2-120, no applicant can be licensed to provide foster care services when the applicant has been convicted of a felony.

2. Pursuant to 62A-2-121, the ~~[The]~~ child abuse data base shall also be screened for each applicant or persons 18 years of age or older living in the home to see if a report of alleged abuse and neglect has been substantiated. This shall be done on initial home approval and yearly thereafter.

a. In accordance with 62A-4a-116(2)(b) the following types of abuse and neglect shall be considered for licensing purposes:

- 1) physical abuse,
- 2) sexual abuse,
- 3) sexual exploitation,
- 4) abandonment, medical neglect resulting in death, disability, or serious illness, or
- 5) chronic or severe neglect.

b. In accordance with 62A-2-121, if the name of any individual living in the home appears on the child abuse data base as substantiated, a license may be denied, approved, or renewed based on a comprehensive review of the individual circumstances, conducted by DHS, in accordance with R501-18.

E. Home Study: There shall be a current home study report on record prepared, or reviewed and signed off, by a licensed Social Worker. A home study shall be completed for each potential foster home. The home study shall be updated annually with a home visit.

F. Provider Code of Conduct: Each foster care applicant shall read, abide by, and sign a current copy of the DHS Provider Code of Conduct.

G. Training: Each foster care applicant shall complete the required pre-service training as specified in R501-12-5 prior to receiving a license.

H. Approval or Denial:

1. Following pre-service training and submission of all required documentation, the home study and assessment of an applicant shall be completed.

2. A license shall be issued for applicants who meet Foster Care Licensing Rules. In addition, the applicants shall be responsible to identify and meet any local ordinances applicable to the type of care.

3. The decision to approve or deny the applicant shall be made on the basis of observable facts and the professional judgement of the Agency or the Office ~~[foster care agency or OL]~~ regarding the safety and sanitation conditions of the home.

4. No person may be denied a foster care license on the basis of race, color, or national origin of the person, or a child, involved, pursuant to the Social Security Act, Section 471(a)(18)(A).

5. The provider shall be evaluated annually for compliance with rules ~~[standards]~~ when renewing a license.

6. Kinship and Specific Home Approval: An applicant may be licensed for placement of one specific child or sibling group. The home study shall be completed and all licensing requirements met. This license is valid for the duration of the specific placement only and must be renewed annually.

7. Licensure approval is not a guarantee that a child will be placed in the home. Additional requirements for adoptive parents and adoptive assessments for children in State custody are included in R512-41(3)(4).

8. Providers shall not be licensed or certified to provide foster care for children in the same home in which they are providing child care, as defined in UCA 26-39-102, or a licensed human service program, as defined in UCA 62A-2-101.

9. The Office ~~[of Licensing]~~ Director or designee may grant a variance to a rule if it is in the best interest of the specific child.

10. All providers shall report any major changes as listed in a. through e. in their lives to the Office or Agency ~~[licensor or foster care agency]~~ within 48 hours. These changes shall be re-evaluated within one month of the change by the Office or Agency ~~[licensor or foster care agency]~~. A major change in the lives of the foster parents shall include, but is not limited to the following;

- a. death or serious illness among the members of the foster family,
- b. separation or divorce,
- c. loss of employment,
- d. change of residence, or
- e. suspected abuse or neglect of any child in the foster home.

R501-12-5. Training.

A. Applicants shall attend training required by the applicable DHS Division or other approved entity and submit verification of completed training to the Office or Agency ~~[licensor or foster care agency]~~.

B. At least one spouse shall complete the entire training series in order for the home to be licensed. The other spouse shall attend at least one third of the training.

C. Providers associated with an Agency ~~[a foster care agency]~~ that is contracted to provide foster care or proctor care services shall meet the training requirements specified by the contract.

R501-12-6. Foster Parent Requirements.

A. Personal characteristics of foster parents shall include the following:

1. Foster parents shall be in good health, able to provide physical and emotional care to the child.

2. Foster parents shall be emotionally stable and responsible persons over 21 years of age. Legally married couples and single individuals, may be foster parents.

3. Foster parents shall have the ability to help the child grow and change in behavior.

4. Foster parents shall not be dependent on the foster care payment for their expenses beyond those associated with foster care, and shall allocate funds as directed by Division policy. Verification of income shall be submitted with the application to the Office or Agency ~~[OL or foster care agency]~~ on an annual basis.

5. Division employees shall not be approved as foster parents to care for children in the custody of their respective Divisions. An employee may provide care for children in the custody of a different Division with approval of the Regional Director in accordance with DHS conflict of interest policy.

6. Owners, directors, and members of the governing body for foster care agencies shall not serve as foster parents.

7. Foster parents shall follow Agency rules and work cooperatively with the Agency. ~~[agency rules and work cooperatively with the agency;]~~ State Court, and law enforcement officials.

B. Family Composition shall meet the following:

1. The number, ages, and gender of persons in the home shall be taken into consideration as they may be affected by or have an effect upon the child.

2. Variance requests for the following must address why a variance is in the best interests of the child, and how basic health

and safety requirements will be maintained, in accordance with R501-1-8.

- a. No more than two children under the age of two, shall reside in a foster home, including natural children.
- b. No more than two non-ambulatory children shall be in a foster home including infants under the age of two.
- c. No more than four foster children shall be in any one home.
- d. No more than six children shall be in a foster home including the foster parent's children under the age of 18.
- e. No more than one foster child shall be in any one home designated for proctor care by agencies contracted with DYC.

R501-12-7. Physical Aspects of Home.

- A. The foster home shall be located in a vicinity in which school, church, recreation, and other community facilities are reasonably available.
- B. The physical facilities of the foster home shall be clean, in good repair, and shall provide for normal comforts in accordance with accepted community standards.
- C. The foster home shall be free from health and fire hazards. Each foster home shall have a working smoke detector on each floor and at least one approved fire extinguisher. An approved fire extinguisher shall be inspected annually and be a minimum of 2A:10BC five point, rated multi-purpose, dry chemical fire extinguisher.
- D. There shall be sufficient bedroom space to provide for the following:
 - 1. rooms are not shared by children of the opposite sex, except infants under the age of two years,
 - 2. children do not sleep in the parents' room, except infants under the age of two years,
 - 3. each child has his or her own solidly constructed bed adequate to the child's size,
 - 4. a minimum of 80 square feet is provided in a single occupant bedroom and a minimum of 60 square feet per child is provided in a multiple occupant bedroom excluding storage space, and
 - 5. no more than four children are housed in a single bedroom.
- E. Sleeping areas shall have a source of natural light and shall be ventilated by mechanical means or equipped with a screened window that opens.
- F. Closet and dresser space shall be provided within the bedroom for the children's personal possessions and for a reasonable degree of privacy.
- G. There shall be adequate indoor and outdoor space for recreational activities.
- H. Foster homes shall offer sufficiently balanced meals to meet the child's needs.
- I. All indoor and outdoor areas shall be maintained to ensure a safe physical environment.
- J. Areas determined to be unsafe, including steep grades, cliffs, open pits, swimming pools, high voltage boosters, or high speed roads, shall be fenced off or have natural barriers.
- K. Equipment: All furniture and equipment shall be maintained in a clean and safe condition. Furniture and equipment shall be of sufficient quantity, variety, and quality to meet individual needs.
- L. Exits: There shall be at least two means of exit on each level of the foster home.

R501-12-8. Safety.

- A. Foster families shall conduct and document fire drills at least quarterly.
- B. Foster parents shall provide training to children regarding response to fire warnings and other instructions for life safety.
- C. The foster home shall have a telephone. Telephone numbers for emergency assistance shall be posted next to the telephone.
- D. The foster home shall have an adequately supplied first aid kit.
- E. Foster parents maintaining firearms in the home shall assure that the firearms are inaccessible to children at all times. Firearms and ammunition shall be securely locked. Firearms kept in the home or on the premises will be rendered inoperable when possible.
- F. No firearms shall be allowed in foster homes that contract with DYC.
- G. Foster parents who have alcoholic beverages in their home shall assure that the beverages are kept inaccessible to children at all times.
- H. There shall be locked storage for hazardous chemicals and materials.

R501-12-9. Emergency Plans.

- A. Foster parents shall have a written plan of action for emergencies and disaster to include the following:
 - 1. evacuation with a pre-arranged site for relocation,
 - 2. transportation and relocation of children when necessary,
 - 3. supervision of children after evacuation or relocation, and
 - 4. notification of appropriate authorities.
- B. Foster parents shall have a written plan for medical emergencies, including arrangements for medical transportation, treatment and care.
- C. Foster parents shall immediately report any serious illness, injury or death of a foster child to the appropriate Division or Agency and the Office~~[foster care agency worker and OL-licensor]~~.

R501-12-10. Infectious Disease.

Foster parents shall abide by policies and procedures designed to prevent or control infectious and communicable diseases in the home.

R501-12-11. Medication.

- A. Foster parents shall administer prescribed medication, according to the written directions of a licensed physician. Medicine shall only be given to the child for whom it was prescribed.
- B. Medication shall not be discontinued without the approval of the licensed physician, side effects shall be reported to the licensed physician.
- C. Non-prescriptive medications may be administered by foster parents according to manufacturer's instructions.
- D. Medications shall not be administered by the foster child.
- E. Medication shall not be used for behavior management or restraint unless prescribed by a licensed physician with notification to the Division or Agency worker~~[or foster care agency worker]~~.
- F. There shall be locked storage for medication.

.....

R501-12-13. Behavior Management.

A. Foster parents shall provide appropriate supervision at all times.

B. Foster parents shall not use, nor permit the use of corporal punishment, physical or chemical restraint, infliction of bodily harm or discomfort, deprivation of meals, rest or visits with family, humiliating or frightening methods to control the actions of children.

C. The foster parents' methods of discipline shall be constructive. In exercising discipline, the child's age, emotional make-up, intelligence and past experiences shall be considered.

D. Passive restraint shall be used only in behaviorally related situations as a temporary means of physical containment to protect the child, other persons, or property from harm. Passive restraint shall not be associated with punishment in any way.

E. Foster parents shall inform the Division or Agency[~~foster care agency~~] worker of any extreme or repeated behavioral problems of a child placed in the foster home.

R501-12-14. Child's Rights in Foster Care.

A. The foster parent shall adhere to the following:

1. allow the child to eat meals with the family, and to eat the same food as the family unless the child has a special prescribed diet,

2. allow the child to participate in family activities,

3. protect privacy of information,

4. not make copies of the child's[~~consumer~~] records,

5. explain the child's responsibilities, including household tasks, privileges, and rules of conduct,

6. not allow discrimination,

7. treat the child with dignity,

8. allow the child to communicate with family, attorney, physician, clergyman, and others, except where documented otherwise,

9. follow visitation rights as provided by DHS or Agency[~~foster care agency~~] worker,

10. allow the child to send and receive mail providing that security and general health and safety requirements are met, foster parents may only censor or monitor a foster child's mail or phone calls by court order,

11. provide for personal needs and clothing allowance, and

12. respect the child's religious and cultural practices.

R501-12-15. Record Keeping.

A. Foster parents shall maintain the following:

1. current license certificate,

2. copy of each contract with DHS[~~the Department of Human Services~~],

3. record of money provided to each foster child,

4. record of expenditures for each foster child, and

5. documentation of special need payments on behalf of the foster child.

B. Foster parents shall maintain the out of home placement information record for each child in their care to include the following:

1. placement information for each child in out of home care,

2. biographical information, including an emergency contact name and telephone number,

3. documentation of the health care record of each child, including the following;

a. immunizations,

b. physical, mental, visual, and dental examinations,

c. emergencies requiring medical treatment, and

d. medication, when applicable, and

4. summary of family visits and contacts, when appropriate, according to the service plan.

C. Foster parents shall ensure that the out of home record accompanies the child or is returned to the Agency[~~foster care agency~~] upon relocation of the child.

D. The Office[~~OT~~] staff shall maintain a separate record for each child foster care home or Agency[~~provider~~].

KEY: licensing, human services, foster care

[~~March 17, 2000~~]2001

62A-2-101 et seq.[~~62A-2-101-121~~]



Human Services, Mental Health, State
Hospital
R525-8
Forensic Mental Health Facility

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 23666

FILED: 04/16/2001, 12:02

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Fulfill requirements of Subsection 62A-12-402(2)(c) to allocate beds for forensic mental health facility.

SUMMARY OF THE RULE OR CHANGE: Allocates 100 beds to serve state forensic population.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 62A-12-402(2)(c)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There is no anticipated cost or savings to the State. The number of beds available at the State Hospital are not changing. The utilization of those beds is just being made more clear.

❖LOCAL GOVERNMENTS: There is no anticipated cost or savings to local governments. The local governments may feel an impact in that only their most severely mentally ill can utilize 1 of the 100 beds allocated at the State Hospital, but the referral for 1 of these beds most come from our Criminal Justice System.

❖OTHER PERSONS: None--there is no cost or savings to other persons. The severely mentally ill persons whom utilize these beds come from referrals through our Criminal Justice System.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There would be no fiscal impact on business, or other affected persons. The severely mentally ill persons whom utilize these beds come from referrals through our Criminal Justice System.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact. A certain number of beds are available and the 100 beds will be utilized for the most severely mentally ill individuals in the system. The Mental Health Corrections Advisory Council established in statute (Section 62A-12-204.5) will prioritize the use of the beds. The Council will handle this responsibility through their ongoing monthly meetings.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Human Services
Mental Health, State Hospital
1300 East Center Street
PO Box 270
Provo, UT 84603-0270, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Danette Faretta-Brady at the above address, by phone at (801) 344-4217, by FAX at (801) 344-4313, or by Internet E-mail at hsush.dfaretta@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: Mark Payne, Director

R525. Human Services, Mental Health, State Hospital.

R525-8. Forensic Mental Health Facility.

R525-8-1. Forensic Mental Health Facility.

(1) Pursuant to the requirements of UCA Section 62A-12-402(2)(c), the forensic mental health facility allocates beds to serve the following categories:

(a) prison inmates displaying mental illness, as defined in UCA Section 62A-12-202, necessitating treatment in a secure mental health facility;

(b) criminally adjudicated persons found guilty and mentally ill or undergoing evaluation for mental illness under UCA Title 77, Chapter 16a;

(c) criminally adjudicated persons found guilty and mentally ill or undergoing evaluation for mental illness under UCA Title 77, Chapter 16a, who are also mentally retarded;

(d) persons found by a court to be incompetent to proceed in accordance with UCA Title 77, Chapter 15, or not guilty by reason of insanity under UCA Title 77, Chapter 14; and

(e) persons who are civilly committed to the custody of a local mental health authority in accordance with UCA Title 62A, Chapter 12, Part 2, and who may not be properly supervised by the Utah

State Hospital because of a lack of necessary security, as determined by the superintendent or his designee.

(2) Additionally, the beds serve the following categories:

(a) persons undergoing an evaluation to determine competency to proceed under UCA Title 77, Chapter 15;

(b) persons committed to the state hospital pursuant to UCA Title 77, Chapter 16 (mental examination after conviction); and

(c) persons committed to the state hospital as a condition of probation under UCA Subsection 77-18-1(14).

R525-8-2. Bed Allocation.

Beds shall be allocated based on current need and priorities as determined by the Mental Health and Corrections Advisory Council established pursuant to UCA Section 62A-12-204.5. Highest priority shall be given to those cases which are specifically required to be admitted to the Utah State Hospital by Utah law.

R525-8-3. No Admission Because of Capacity.

When capacity in the forensic mental health facility has been met, the hospital shall not admit any persons to the forensic mental health facility until a bed becomes available. In such an event the hospital will work cooperatively with the court to find a resolution.

KEY: forensic, mental health, facility

2001

62A-12-402(2)(c)



Natural Resources, Parks and Recreation

R651-635

Commercial Use of Division Managed Lands

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 23654

FILED: 04/13/2001, 19:20

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To make clear the authority and documents needed to conduct commercial activities on any land managed or owned by the Division of Parks and Recreation, and approvals needed in writing prior to such activity.

SUMMARY OF THE RULE OR CHANGE: This rule is designed to clearly define commercial use of any division managed lands in Utah. It spells out the written authorization needed, the form of such written authorization and who is empowered to sign such documents. All forms and documents that provide authorization for commercial activity, special uses and other privileged uses of lands managed or owned by the Division will be provided by the Division.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63-11-17

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There will be no aggregate anticipated costs or savings to the state budget as the agency is defining commercial use and the requirements that must be met in order to use state lands or facilities.

❖LOCAL GOVERNMENTS: Since local government has no authority over State Parks, there is no aggregate anticipated cost or savings.

❖OTHER PERSONS: Because the changes in this rule are for definition only, there are no changes in costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since there are no costs involved or savings generated, a compliance cost will not be used.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule change will have no fiscal impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or by Internet E-mail at nrdomain.dguess@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: David K. Morrow, Deputy Director

R651. Natural Resources, Parks and Recreation.

R651-635. Commercial Use of Division Managed Park Areas.

R651-635-1. No Commercial Activity in Park Areas without Specific Written Authorization.

No commercial activity may be conducted on any park area managed or owned by the division unless the division has provided specific written authorization for that activity.

R651-635-2. Written Forms of Authorization.

Written authorization may be in the form of a concession contract, special use permit, lease, right of way, or other negotiated agreement.

R651-635-3. Signature Requirements - Division Documents.

Regardless of any preceding activities, no contract, agreement, lease, or other similar document is binding on the division until signed by the division director or deputy director, the division contract officer and any other individual as required by state law or regulation.

R651-635-4. Signature Requirements - Special Use Permits.

No special use permit is binding on the division until signed by the park manager of the park where the activity to be carried out under the permit will occur and the region manager supervising the park.

R651-635-5. Forms Provided by Division.

The division shall provide forms and documents that provide authorization for commercial activity, special uses, and other privileged uses of park areas managed or owned by the division.

KEY: parks

June 1, 2001

63-11-12

63-11-17

63-11-19



Natural Resources; Forestry, Fire and State Lands

R652-70-2400

Recreational Use of Navigable Rivers

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23621

FILED: 04/10/2001, 16:20

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In an effort to achieve interagency consistency regarding commercial and noncommercial river float trips, the Division of Forestry, Fire and State Lands, the Division of Parks and Recreation, the Bureau of Land Management and commercial outfitters are addressing a variety of issues regarding the Green and Colorado rivers. Opportunities for enhanced coordination are being explored. To date, consensus has been reached regarding camping, sanitation, fire and other resource protection issues along these rivers. Consensus also has been reached with respect to noncommercial use along the stretch of the Green River from Green River State Park to Canyonlands National Park. The proposed amendment reflects that consensus. The purpose of the no-cost noncommercial permit is to educate the public with respect to recreation management and resource protection in the more popular river use areas. Subsequent amendments will be made as further agreement is reached.

SUMMARY OF THE RULE OR CHANGE: The amendment specifies the rivers that are sovereign lands and therefore subject to division rules, among other rules. Requirements regarding sanitation, camping, and fire that apply to all navigable rivers, and over which broad consensus has been reached, are already in effect. A new restriction imposed by the rule is that no firewood may be cut except in designated areas. The requirement that permits be secured for commercial use is clarified by naming the specific permits. The need to secure a no-cost permit for noncommercial use along the Green River from Green River State Park to Canyonlands National Park is new. The agencies from which the permit can be obtained are specified.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 65A-1-4(2)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The rule can be implemented within the existing division budget. No specific costs or savings have been identified. The interagency agreement under which the rule will be implemented does not obligate any of the agencies to expend funds for cooperative river management.

❖LOCAL GOVERNMENTS: The rule does not apply to local government.

❖OTHER PERSONS: The camping and sanitation requirements imposed by the rule are already in place and are not affected by the amendment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The camping and sanitation requirements are already in effect and are not changed by the amendment. These same requirements are enforced on federal lands adjoining state land. The Subsection addressing commercial trips closely parallels existing statute and rule regarding commercial use of state land. The amendment will not result in additional compliance costs. The interagency permit requirement for noncommercial use along the specific stretch of the Green River is new. This permit will be issued free of charge and will be conveniently available from three agencies. The few minutes required to obtain this permit should not add significantly to the time required to prepare for a river trip.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses associated with river running will not incur any additional operating costs as a result of this amendment.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Natural Resources
Forestry, Fire and State Lands
3520
1594 West North Temple
PO Box 145703
Salt Lake City, UT 84114-5703, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Karl Kappe at the above address, by phone at (801) 538-5495, by FAX at (801) 533-4111, or by Internet E-mail at nrslf.kkappe@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: Karl Kappe, Strategic Planner

R652. Natural Resources; Forestry, Fire and State Lands.

R652-70. Sovereign Lands.

R652-70-2400. Recreational Use of Navigable Rivers.

1. Navigable rivers include the Bear River, Jordan River, and portions of the Green and Colorado rivers. On the Green River the navigable portions presently recognized as being owned by the state are generally described as from Dinosaur National Monument to the mouth of Sand Wash, and from the mouth of Desolation Canyon at Swazey's Rapid, also known as Twelve Mile Rapid, to the north boundary of Canyonlands National Park. On the Colorado River the navigable portions presently recognized as being owned by the state are generally described as from the mouth of Castle Creek to the east boundary of Canyonlands National Park and from the mouth of Cataract Canyon to the Arizona state line. Except as specified, this Section applies to recreational navigation on these waters.

[1]2. Each group[~~either private or commercial, on~~] conducting an overnight float trip[s] is required to possess and utilize a washable, reusable toilet system[s] that allows for disposal of solid human body waste through an authorized sewage system[s].

[2]3. All garbage, trash, human waste and pet waste must be carried ~~out of the area~~ off the river and disposed of properly.

[3]4. ~~[If an overnight]~~ For a float trip that takes place on [a section of navigable river with]the Colorado River between the mouth of Castle Creek and Potash, where toilet facilities and ~~for~~ sewage and trash receptacles are available ~~(such as the Colorado River "Daily")~~, these provided facilities may be used in lieu of reusable toilets and carrying out garbage, trash, and waste products.

[4]5. The maximum group size for overnight river trips ~~on Labyrinth Canyon (Green River)~~ is limited to 25 persons. Two or more groups may not camp together if the resulting group size ~~would be more than~~ exceeds 25 persons at a campsite.

[5]6. Each group on an overnight float trip[s in Labyrinth Canyon (Green River)] is required to possess a durable metal fire pan at least 12 inches wide, with a lip of at least 1.5 inches around its outer edge, and to utilize this fire pan to contain ~~their~~ campfires.

[6]7. Only driftwood may be used as firewood. No cutting of firewood is allowed except in designated areas. Ashes and charcoal accumulated during a trip[through Labyrinth Canyon] must be carried out and disposed of properly.

8. A right of entry permit from the division and a special recreation permit from the federal agency managing the land through which the river flows are required for commercial float trips.

9. For the Green River from Green River State Park to Canyonlands National Park, each noncommercial group floating the river shall have in the group's possession a valid interagency noncommercial river trip permit and shall abide by its terms. This permit will be issued free of charge by the Division, the Division of

Parks and Recreation, the Bureau of Land Management, authorized outfitters and authorized private landowners. Subsection R652-70-2400(8) applies to commercial trips.

KEY: sovereign lands, permits, administrative procedure
[February 29, 2000]2001 65A-10-1
Notice of Continuation April 11, 1997



Natural Resources, Wildlife Resources

R657-3

Collection, Importation, Transportation, and Possession of Zoological Animals

NOTICE OF PROPOSED RULE

(Repeal and Reenact)
 DAR FILE NO.: 23674
 FILED: 04/16/2001, 17:55
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: First, this rule is being repealed and reenacted due to the significant changes in formatting. Second, this rule is being amended to provide the standards and procedures for governing the collection, importation, exportation, transportation, and possession of zoological animals and their parts. Third, this rule is being amended to provide the standards and procedures for the classification of zoological animals and their parts for the collection, importation, or possession of those zoological animals and their parts. Finally, this rule is being amended to provide the rationale in evaluating applications for a Certificate of Registration (COR) that involve the collection, importation or possession of a zoological animals.

SUMMARY OF THE RULE OR CHANGE: Section R657-3-2 is being amended to include: Water Buffalo (*Bubalis arnee*), Yak (*Bos mutus*), and Zebu (*Bos indicus*). Under Section R657-3-4, the definitions of "controlled, noncontrolled and prohibited" are amended to remove wording regarding the threat of disease, which is covered under the human health and ecological risk criteria, clarify environmental and ecological risks, and define when a Certificate of Registration (COR) is required. The term "captive-bred" is being defined to make the distinction between wild and free-ranging animals and captive-bred animals. The term "possession" is being added to define the activity of possessing zoological animals. "CITES" is defined as the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The CITES list indicates which international species are in need of protection and should be given special consideration in Utah. This list is also incorporated by reference. Several sections of the rule are being combined to separate the activity of possession from collection and importation. Collection, Importation and/or Possession are

now being considered three separate activities. Section R657-3-13 is being added to allow a person who has possession of a zoological animal, where the animal classification has changed from noncontrolled to controlled or prohibited, to come into compliance with the rule by obtaining a COR from the division by December 31, 2002. The Commercial Use sections of the rule are being combined and clarified to explain when a zoological animal that is classified as noncontrolled, controlled or prohibited, may be used for a commercial purpose, and when a COR may be required. The classification and specific rules for each of the following groups of zoological animals have been combined for clarification: amphibians, birds, invertebrates, fish, mammals and reptiles. Some of the specific classifications for species in each of the zoological groups have been changed to comply with CITES. In addition to CITES, most of these animals were classified or reclassified as controlled or prohibited because they posed a threat to human safety, were included on state, federal or international lists of protected species, were likely to compete with native species, were likely to damage native habitats, were likely to become nuisance species, or had been renamed or taxonomically reclassified. A list of the specific species classification changes are available at the division office. Finally, Section R657-3-31 was added to the rule to clarify the propagation of zoological animals depending on the zoological animal's classification. Other changes were made for consistency and clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 50 CFR 23.23, 1999 ed.

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** These amendments are for clarification and the classification or reclassification of zoological animals. As a result of the changes in the classification of specific species, the division may incur some cost in the enforcement to comply with the rule. Additional costs may also be incurred in issuing CORs and administering this program. However, the cost is unknown at this time and the Division of Wildlife Resources determines that the cost is minimal.

❖**LOCAL GOVERNMENTS:** None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖**OTHER PERSONS:** These amendments are for clarification and the classification or reclassification of zoological animals. As a result of the changes in the classification of specific species, other persons, may incur some cost to comply with the rule by obtaining a COR. However, the amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The classification or reclassification of zoological animals may result in an affected person being required to obtain a COR for a zoological animal in their possession that changed from a noncontrolled classification to a controlled or prohibited

classification. This would include the cost of an application, which requires a \$5 nonrefundable handling fee, and the cost of a COR, which is \$50.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The classification or reclassification of zoological animals may result in businesses, specifically pet stores or businesses in the pet trade, being required to obtain a COR for a zoological animal in their possession that changed from a noncontrolled classification to a controlled or prohibited classification. This would include the cost of an application, which requires a \$5 nonrefundable handling fee, and the cost of a COR, which is \$50. Pet stores or businesses in the pet trade may be restricted in selling the animal, unless the buyer of the animal obtains a COR for possession.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Natural Resources
Wildlife Resources
Suite 2110
1594 West North Temple
PO Box 146301
Salt Lake City, UT 84114-6301, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdwr.dsundell@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: John Kimball, Director

R657. Natural Resources, Wildlife Resources.

{**DAR Note:** Because of publication constraints, the repealed text of this rule is not printed in this *Bulletin*, but is published by reference to a copy on file at the Division of Administrative Rules. The text may also be inspected at the agency (address above) or in the *Utah Administrative Code* which is available at any state depository library.}

R657-3. Collection, Importation, Transportation, and Possession of Zoological Animals.

R657-3-1. Purpose and Authority.

(1) Under Title 23, Wildlife Resources Code of Utah and in accordance with a memorandum of understanding with the Department of Agriculture and Food, Department of Health, and the Division of Wildlife Resources, this rule governs the collection, importation, exportation, transportation, and possession of zoological animals and their parts.

(2) Nothing in this rule shall be construed as superseding the provisions set forth in Title 23, Wildlife Resources Code of Utah.

Any provision of this rule setting forth a criminal violation that overlaps a section of that title is provided in this rule only as a clarification or to provide greater specificity needed for the administration of the provisions of this rule.

(3) In addition to this rule, the Wildlife Board may allow the collection, importation, transportation, and possession of species of zoological animals under specific circumstances as provided in Rules R657-4 through R657-6, R657-9 through R657-11, R657-13, R657-14, R657-16, R657-19, R657-20 through R657-22, R657-33, R657-37, R657-40 and R657-46. Where a more specific provision has been adopted, that provision shall control.

(4) Holding raccoons and coyotes in captivity is governed by the Department of Agriculture and Food under Section 4-23-11 and Rule R58-14. The importation of coyotes and raccoons into Utah is governed by the Wildlife Board and is prohibited under this rule.

(5) This rule does not apply to division employees acting within the scope of their assigned duties.

R657-3-2. Species Not Covered by This Rule.

The following species of domestic animals are not governed by this rule:

- (1) Alpaca (*Lama pacos*);
- (2) Ass and donkey (*Equus asinus*);
- (3) Bison, privately owned (*Bos bison*);
- (4) Camel (*Camelus bactrianus* and *Camelus dromedarius*);
- (5) Cassowary (all species)
- (6) Cat and cat hybrids (*Felis catus*);
- (7) Cattle (*Bos taurus* and *Bos indicus*);
- (8) Chicken (*Gallus gallus*);
- (9) Chinchilla (*Chinchilla laniger*);
- (10) Dog and dog hybrids (*Canis familiaris*);
- (11) Ducks distinguishable morphologically from wild birds (*Anatidae*);
- (12) Elk, privately owned (*Cervus elaphus canadensis*);
- (13) Emu (*Dromaius novaehollandiae*);
- (14) European ferret (*Mustela putorius*);
- (15) Fowl (guinea) (*Numida meleagris*);
- (16) Fox, privately owned, ranch-raised amber, blue and silver forms (*Vulpes vulpes*);
- (17) Geese, distinguishable morphologically from wild geese (*Anatidae*);
- (18) Gerbils (*Meriones unguiculatus*);
- (19) Goat (*Capra hircus*);
- (20) Hamster (Syrian or golden) (*Mesocricetus auratus* and *Mesocricetus brandti*);
- (21) Hedgehog (white bellied) (*Erinaceidae Atelerix albiventris*);
- (22) Horse (*Equus caballus* and hybrids with *Equus asinus*);
- (23) Llama (*Lama glama*);
- (24) Mice (*Mus musculus*);
- (25) Mink, privately owned, ranch-raised (*Mustela vison*);
- (26) Ostrich (*Struthio camelus*);
- (27) Peafowl (*Pavo cristatus*);
- (28) Pig (guinea) (*Cavia porcellus*);
- (29) Pigeon (*Columba livia*);
- (30) Rabbit (European) (*Oryctolagus cuniculus*);
- (31) Rats (*Rattus norvegicus* and *Rattus rattus*);
- (32) Rhea (*Rhea americana*);
- (33) Sheep (*Ovis aries*);

(34) Swine (*Sus scrofa*);

(35) Turkey, privately owned, pen-raised domestic varieties (*Meleagris gallopavo*). Domestic varieties means any turkey or turkey egg held under human control and which is imprinted on other poultry or humans and which does not have morphological characteristics of wild turkeys;

(36) Water buffalo (*Bubalis arnee*);

(37) Yak (*Bos mutus*); and

(38) Zebu (*Bos indicus*)

R657-3-3. Cooperative Agreements with Department of Health and Department of Agriculture and Food -- Agency Responsibilities.

(1) The division, the Department of Agriculture and Food, and the Department of Health work cooperatively through memorandums of understanding to:

(a) protect the health, welfare, and safety of the public;

(b) protect the health, welfare, safety, and genetic integrity of wildlife, including environmental and ecological impacts; and

(c) protect the health, welfare, safety, and genetic integrity of domestic livestock, poultry, and other animals.

(2) The division is responsible for:

(a) issuing certificates of registration for the collection, possession, importation, and transportation of zoological animals;

(b) maintaining the integrity of wild and free-roaming protected wildlife;

(c) determining the species of aquatic animals which may be imported into, possessed, and transported within the state;

(d) preventing the outbreak and controlling the spread of disease-causing pathogens among aquatic animals in public aquaculture facilities;

(e) preventing the spread of disease-causing pathogens from aquatic animals in, to be deposited in, or harvested from public aquaculture facilities and private ponds to aquatic wildlife, other animals, and humans; and

(f) enforcing laws and rules made by the Wildlife Board governing the collection, importation, transportation, and possession of zoological animals.

(3)(a) The Utah Department of Agriculture and Food is responsible for eliminating, reducing, and preventing the spread of diseases among livestock, fish, poultry, wildlife, and other animals by providing standards for:

(i) the importation of livestock, fish, poultry, and other animals, including wildlife, as provided in Section R58-1-4;

(ii) the control of predators and depredating animals as provided in Title 4, Chapter 23, Agriculture and Wildlife Damage Prevention Act;

(iii) enforcing laws and rules made by the Wildlife Board governing species of aquatic animals which may be imported into the state or possessed or transported within the state that are applicable to aquaculture or fee fishing facilities;

(iv) preventing the outbreak and controlling the spread of disease-causing pathogens among aquatic animals in aquaculture and fee fishing facilities; and

(v) preventing the spread of disease-causing pathogens from aquatic animals in, to be deposited in, or harvested from aquaculture or fee fishing facilities to aquatic wildlife, or other animals, and humans.

(b) The Department of Agriculture and Food may make regulatory decisions concerning the collection, importation, transportation, and possession of zoological animals if a disease is suspected of endangering livestock, fish, poultry, or other domestic animals.

(4) The Utah Department of Health is responsible for promoting and protecting public health and welfare and may make recommendations to the division concerning the collection, importation, transportation, and possession of zoological animals if a disease or animal is suspected of endangering public health or welfare.

R657-3-4. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2 and Subsection (2) through Subsection (31).

(2) "Aquaculture" means the controlled cultivation of aquatic animals.

(3)(a) "Aquaculture facility" means any tank, canal, raceway, pond, off-stream reservoir, or other structure used for aquaculture. "Aquaculture facility" does not include any public aquaculture facility or fee fishing facility.

(b) Structures that are separated by more than 1/2 mile, or structures that drain to or are modified to drain to, different drainages, are considered separate aquaculture facilities regardless of ownership.

(4) "Aquatic animal" means a member of any species of fish, mollusk, crustacean, or amphibian, including their gametes.

(5) "Captive-bred" means any privately owned zoological animal, which is born inside of and has spent its entire life in captivity and is the offspring of privately owned zoological animals that are born inside of and have spent their entire life in captivity.

(6) "Certificate of veterinary inspection" means an official health authorization issued by an accredited veterinarian required for the importation of zoological animals, as provided in Rule R58-1.

(7) "CFR" means the Code of Federal Regulations.

(8) "CITES" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

(a) Appendix I of CITES protects threatened species from all international commercial trade; and

(b) Appendix II of CITES regulates trade in species not threatened with extinction, but which may become threatened if trade goes unregulated.

(c) CITES appendices are published periodically by the CITES Secretariat and reprinted by the U.S. Fish and Wildlife Service in 50 CFR 23.23, 1999, ed., which is incorporated herein by reference.

(9) "Collect" means to take, catch, capture, salvage, or kill any zoological animal within Utah.

(10) "Commercial use" means any activity through which a person in possession of a zoological animal:

(a) receives any consideration for that zoological animal or for a use of that zoological animal, including nuisance control and roadkill removal; or

(b) expects to recover all or any part of the cost of keeping the zoological animal through selling, bartering, trading, exchanging, breeding, or other use, including displaying the zoological animal for entertainment, advertisement, or business promotion.

(11) "Controlled species" means a species or subspecies of zoological animal that may be taken from or escape into the wild, or held in captivity, without possible significant detrimental impacts to wild populations, the environment, or human health or safety, and for which a certificate of registration is required.

(12) "Den" means any place where reptiles congregate.

(13) "Educational use" means the possession and use of a zoological animal for conducting educational activities concerning wildlife and wildlife-related activities.

(14) "Entry permit number" means a number issued by the state veterinarian's office to a veterinarian signing a certificate of veterinary inspection. The entry permit number must be written on the certificate of veterinary inspection before the importation of the zoological animal. The entry permit is valid only for 30 days after its issuance.

(15) "Export" means to move or cause to move any zoological animal from Utah by any means.

(16) "Fee fishing facility" means a body of water used for holding or rearing fish to provide fishing for a fee or for pecuniary consideration or advantage.

(17) "Import" means to bring or cause a zoological animal to be brought into Utah by any means.

(18) "Native species" means any species or subspecies of zoological animal that historically occurred in Utah and has not been introduced by humans or migrated into Utah as a result of human activity.

(19) "Naturalized species" means any species or subspecies of zoological animal that is not native to Utah but has established a wild, self-sustaining population in Utah.

(20) "Noncontrolled species" means a species or subspecies of zoological animal that if taken from the wild, introduced into the wild, or held in captivity, poses no detrimental impact to wild populations, the environment, or human health or safety, and for which a certificate of registration is not required, unless otherwise specified.

(21)(a) "Nonnative species" means a species or subspecies of zoological animal that is not native to Utah.

(b) "Nonnative species" does not include domestic animals or naturalized species of zoological animals.

(22)(a) "Ornamental fish" means fish that are raised or kept for their beauty rather than use, or that arouse interest for their uncommon or exotic characteristics, including tropical fish, goldfish, and koi.

(b) "Ornamental fish" does not include any species listed as prohibited or controlled in Sections R657-3-23 or R657-3-34.

(23) "Personal use" means the possession and use of a zoological animal for a hobby or for its intrinsic pleasure and where no consideration for the possession or use of the animal is received by selling, bartering, trading, exchanging, breeding, or any other use.

(24) "Possession" means to physically retain or to exercise dominion or control over a zoological animal.

(25) "Prohibited species" means a species or subspecies of zoological animal that if taken from the wild, introduced into the wild, or held in captivity, poses a significant detrimental impact to wild populations, the environment, or human health or safety, and for which a certificate of registration shall only be issued in accordance with Sections R657-3-19(1)(b) or R657-3-47.

(26) "Public aquaculture facility" means a tank, canal, raceway, pond, off-stream reservoir, or other structure used for aquaculture by the division, U.S. Fish and Wildlife Service, a school, or an institution of higher education.

(27) "Transport" means to move or cause to move any zoological animal within Utah by any means.

(28) "Turtle" means all animals commonly known as turtles, tortoises, terrapins, and all other animals of the order Testudinata, class Reptilia.

(29) "Scientific use" means the possession and use of a zoological animal for conducting scientific research that is directly or indirectly beneficial to wildlife or the general public.

(30) "Wildlife Registration Office" means the division office in Salt Lake City responsible for processing applications and issuing certificates of registration.

(31)(a) "Zoological animal" means:

(i) native, naturalized, and nonnative species of animals, occurring in the wild, captured from the wild, or born or raised in captivity;

(ii) hybrids of any native, naturalized, or nonnative species or subspecies of animals; and

(iii) viable embryos or gametes of any native, naturalized, or nonnative species or subspecies of animals.

(A) "Zoological animal" does not include species listed as domestic in Subsection R657-3-2.

R657-3-5. Liability.

(1)(a) Any person who accepts a certificate of registration assumes all liability and responsibility for the collection, importation, transportation, and possession of the zoological animal and for conducting any activity authorized by the issuance of the certificate of registration.

(b) To the extent provided under the Utah Governmental Immunity Act, the division, Department of Agriculture and Food, and Department of Health shall not be liable in any civil action for:

(i) any injury, disease, or damage caused by or to any animal, person, or property as a result of any activity authorized under this rule or a certificate of registration; or

(ii) the issuance, denial, suspension, or revocation of or by the failure or refusal to issue, deny, suspend, or revoke any certificate of registration or similar authorization.

(2) It is the responsibility of any person who obtains a certificate of registration to read and understand this rule and to comply with all federal, state, county, city, or other municipality laws, regulations, and ordinances governing zoological animals in addition to the provisions of this rule.

R657-3-6. Animal Welfare.

(1) Any zoological animal held in possession under the authority of a certificate of registration shall be maintained under humane and healthy conditions, including the humane handling, care, confinement, transportation, and feeding, as provided in:

(a) the Minimum Facility and Health Standards Guide, which is adopted and incorporated by reference;

(b) Section 76-9-301; and

(c) Section 7 CFR 2.17, 2.51, and 371.2(g), 1999, ed., which are incorporated by reference.

(2) A person commits cruelty to animals under this section if that person intentionally, knowingly, or with criminal negligence, as defined in Section 76-2-103:

(a) tortures or seriously overworks an animal; or

(b) fails to provide necessary food, care, or shelter for any animal in that person's custody.

(3) Adequate measures must be taken for the protection of the public when handling, confining, or transporting any zoological animal.

R657-3-7. Nuisance Birds -- Nuisance Porcupine, Striped Skunk, and Squirrel.

(1)(a) A person is not required to obtain a certificate of registration or a federal permit to kill American Crows or Black-billed Magpies when found committing, or about to commit, depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance, provided:

(i) none of the birds killed pursuant to this section, nor their plumage, are sold or offered for sale; and

(ii) any person killing American Crows or Black-billed Magpies shall:

(A) allow any federal warden or conservation officer unrestricted access over the premises where American Crows or Black-billed Magpies are killed; and

(B) furnish any information concerning the control operations to the division or federal official upon request.

(b) A person may kill American Crows or Black-billed Magpies by any means, excluding bait, explosives or poison, and only on or over the threatened area.

(c) American Crows and Black-billed Magpies killed pursuant to this section shall be collected immediately and must be disposed of at a landfill that accepts wildlife carcasses or must be buried or incinerated.

(d) This subsection incorporates Section 50 CFR 21.42 an 21.43, 1999, ed., by reference.

(2)(a) A person may capture, transport, and kill or release a nuisance porcupine, striped skunk, or squirrel without obtaining a certificate of registration.

(b) A nuisance porcupine, striped skunk, or squirrel may be released only as follows:

(i) within 48 hours of capture;

(ii) within the county in which it was captured; and

(iii) in a location where it does not pose a risk to human health or safety, or create other conflict with humans, agriculture, or other animals.

R657-3-8. Collection, Importation, and Possession of Threatened and Endangered Species and Migratory Birds.

(1) The following species are prohibited from collection, possession, and importation into Utah without first obtaining a certificate of registration from the division, a federal permit from the U.S. Fish and Wildlife Service, and an entry permit number from the Department of Agriculture and Food if importing:

(a) any species which have been determined by the U.S. Fish and Wildlife Service to be endangered or threatened pursuant to the federal Endangered Species Act, as amended; and

(b) any species of migratory birds protected under the Migratory Bird Treaty Act.

(2) Federal laws and regulations apply to threatened and endangered species and migratory birds in addition to state and local laws.

R657-3-9. Release of Zoological Animals to the Wild -- Capture or Disposal of Escaped Wildlife.

(1)(a) Except as provided in Title 4, Chapter 37, the Aquaculture Act and Subsection R657-3-7(2), a person may not release to the wild or release into any public or private waters any zoological animal, including fish, without first obtaining authorization from the division.

(b) A violation of this section is punishable under Section 23-13-14.

(2) The division may seize or dispose of any illegally held zoological animal.

(3)(a) Any peace officer, division representative, or authorized animal control officer may seize or dispose of any live zoological animal that escapes from captivity.

(b) The division may retain custody of any recaptured zoological animal until the costs of recapture or care have been paid by its owner or keeper.

R657-3-10. Inspection of Documentation, Facilities, and Zoological Animals.

(1) A conservation officer or any other peace officer may require any person engaged in activities covered by this rule to exhibit:

(a) any documentation related to activities covered by this rule, including certificates of registration, permits, certificates of veterinary inspection, certification, bills of sale, or proof of ownership or legal possession;

(b) any zoological animal; or

(c) any device, apparatus, or facility used for activities covered by this rule.

(2) Inspection shall be made during reasonable hours.

R657-3-11. Certificate of Registration Required.

(1)(a) A person shall obtain a certificate of registration before collecting, importing, transporting, or possessing any species of zoological animal or its parts classified as prohibited or controlled, except as otherwise provided by the Wildlife Board or rules of the Wildlife Board as provided in Subsection R657-3-1(3).

(b) A certificate of registration is not required:

(i) to collect, import, transport, or possess any species or subspecies of zoological animal classified as noncontrolled, except as provided in Subsections R657-3-21(3) and R657-3-26(5)(a); or
(ii) to export any species or subspecies of zoological animal from Utah, provided that the zoological animal is held in legal possession.

(c) Applications for zoological animals classified as prohibited are not accepted by the division without providing written justification as to why the applicant's proposed collection, importation, or possession of the zoological animal meets the criteria provided in Subsections R657-3-20(1)(b) or R657-3-18(4)(b).

(2)(a) Certificates of registration are not transferable and expire December 31 of the year issued, except as otherwise designated on the certificate of registration.

(b) If the holder of a certificate of registration is a representative of an institution, organization, business, or agency, the certificate of registration shall end upon the representative's discontinuation of association with that entity.

(c) Certificates of registration do not provide the holder with any rights of succession and any certificate of registration issued to a business or organization shall be void upon the termination of the business or organization or upon bankruptcy or transfer.

(3)(a) The issuance of a certificate of registration automatically incorporates within its terms the conditions and requirements of this rule specifically governing the activity for which the certificate of registration is issued.

(b) Any person accepting a certificate of registration under this rule acknowledges the necessity for close regulation and monitoring by the division.

(4) A single certificate of registration may authorize more than one activity.

(5)(a) In addition to this rule, the division may impose specific requirements on the holder of the certificate of registration necessary for the safe and humane handling and care of the zoological animal involved, including requirements for veterinary care, cage or holding pen sizes and standards, feeding requirements, social grouping requirements, and other requirements considered necessary by the division for the health and welfare of the zoological animal or the public.

(b) The authorizations on the face of the certificate of registration setting forth specific times, dates, places, methods of take, numbers and species of zoological animals, location of activity, authorization for certain circumscribed transactions, or other designated conditions are to be strictly construed and shall not be interpreted to permit similar or related matters outside the scope of strict construction.

(6)(a) Upon or before the expiration date of a certificate of registration, the holder may apply for a new certificate of registration to continue the activity.

(b) The division shall use the criteria provided in Section R657-3-14 in determining whether to issue the new certificate of registration.

(c) If an application is not made by the expiration date, live or dead zoological animals held in possession under the expired certificate of registration shall be considered unlawfully held and may be seized by the division.

(d) If an application for a new certificate of registration is submitted before the expiration date, the existing certificate of registration shall remain valid while the application is pending.

(7) Failure to submit timely, accurate, or valid reports as required under Section R657-3-16 and the certificate of registration may disqualify a person from obtaining a new certificate of registration.

(8) A certificate of registration may be revoked as provided in Section 23-19-9 and Rule R657-26.

R657-3-12. Application Procedures -- Fees.

(1)(a) Applications for certificates of registration are available from, and must be submitted to, the Wildlife Registration Office in Salt Lake City or any regional division office.

(b) The application may require up to 45 days for review and processing.

(c) Applications that are incomplete, completed incorrectly, or submitted without the appropriate fee or other required information may be returned to the applicant.

(2)(a) Legal tender in the correct amount must accompany the application.

(b) The certificate of registration fee includes a nonrefundable handling fee.

(c) Fees may be waived for wildlife rehabilitation, educational or scientific activities, or for state or federal agencies upon request if, in the opinion of the division, the activity is significantly beneficial to the division, wildlife, or wildlife management.

R657-3-13. Retroactive Effect on Possession.

A person lawfully possessing a zoological animal prior to the effective date of this rule may receive a certificate of registration from the division for the continued possession of that individual animal where the animal's species classification has changed hereunder from noncontrolled to controlled or prohibited, or from controlled to prohibited. The certificate of registration shall be obtained by December 31, 2002, or possession of the zoological animal thereafter shall be unlawful.

R657-3-14. Issuance Criteria.

(1) The following factors shall be considered before the division may issue a certificate of registration:

- (a) the health, welfare, and safety of the public;
- (b) the health, welfare, safety, and genetic integrity of wildlife, domestic livestock, poultry, and other animals;
- (c) ecological and environmental impacts;
- (d) the suitability of the applicant's holding facilities;
- (e) the experience of the applicant for the activity requested; and
- (f) ecological or environmental impact on other states.

(2) In addition to the criteria provided in Subsection (1), the division shall use the following criteria for the issuance of a certificate of registration for a scientific use of a zoological animal:

- (a) the validity of the objectives and design;
- (b) the likelihood the project will fulfill the stated objectives;
- (c) the applicant's qualifications to conduct the research, including the requisite education or experience;
- (d) the adequacy of the applicant's resources to conduct the study; and
- (e) whether the scientific use is in the best interest of the zoological animal, wildlife management, education, or the advancement of science without unnecessarily duplicating previously documented scientific research.

(3) In addition to the criteria provided in Subsection (1), the division may use the following criteria for the issuance of a certificate of registration for an educational use of a zoological animal:

- (a) the objectives and structure of the educational program; and
- (b) whether the applicant has written approval from the appropriate official if the activity is conducted in a school or other educational facility.

(4) The division may deny issuing a certificate of registration to any applicant, if the applicant has:

(a) violated any provision of Title 23, Utah Wildlife Resources Code, Administrative Code R657, a certificate of registration, an order of the Wildlife Board or any other law that when considered with the functions and responsibilities of collecting, importing, possessing or propagating a zoological animal bears a reasonable relationship to the applicant's ability to safely and responsibly carry out such activities;

(b) previously been issued a certificate of registration and failed to submit any report or information required by this rule, the division, or the Wildlife Board; or

(c) misrepresented or failed to disclose material information required in connection with the application.

(5) The collection or importation and subsequent possession of a zoological animal shall be granted only upon a clear demonstration that the criteria established in this section have been met by the applicant.

(6) The division, in making a determination under this section, may use any information available that is relevant to the issuance of the certificate of registration, including independent inquiry or investigation to verify information or substantiate the qualifications asserted by the applicant.

(7) If an application is denied, the division shall provide the applicant with written notice of the reasons for denial.

(8) An appeal of the denial of an application may be made as provided in Section R657-3-40.

R657-3-15. Amendment to Certificate of Registration.

(1)(a) If material circumstances have changed requiring a modification of the terms of the certificate of registration, the holder may request an amendment by submitting written justification and supporting information.

(b) The division may amend the certificate of registration or deny the request based on the criteria for initial applications provided in Section R657-3-14, and, if the request for an amendment is denied, shall provide the applicant with written notice of the reasons for denial.

(c) The division may charge a fee for amending the certificate of registration.

(d) An appeal of a request for an amendment may be made as provided in Section R657-3-40.

(2) The division reserves the right to amend any certificate of registration for good cause upon notification to the holder and written findings of necessity.

(3)(a) Each holder of a certificate of registration shall notify the division within 30 days of any change in mailing address.

(b) Zoological animals or activities authorized by a certificate of registration may not be held at any location not specified on the certificate of registration without prior written permission from the division.

R657-3-16. Records and Reports.

(1)(a) From the date of the issuance of the certificate of registration, the holder shall maintain complete and accurate records of any taking, possession, transportation, propagation, sale, purchase, barter, or importation pursuant to the certificate of registration.

(b) Records must be kept current and shall include the names, phone numbers, and addresses of persons with whom any

zoological animal has been sold, bartered, or otherwise transferred or received, and the dates of the transactions.

(c) The records required under this section must be maintained for two years from the expiration date of the certificate of registration.

(2) Reports of activity must be submitted to the Wildlife Registration Office as specified on the certificate of registration.

(3) Failure to submit the appropriate records and reports may result in revocation or denial of a certificate of registration.

R657-3-17. Collection, Importation or Possession for Personal Use.

(1) A person may collect, import or possess live or dead zoological animals or their parts for a personal use only as follows:

(a) Certificates of registration are not issued for the collection, importation or possession of any live or dead zoological animals or their parts classified as prohibited.

(b) A certificate of registration is required for collecting, importing or possessing any live or dead zoological animals or their parts classified as controlled, except as otherwise provided by the Wildlife Board.

(c) A certificate of registration is not required for collecting, importing or possessing live or dead zoological animals or their parts classified as noncontrolled, except as provided in Subsections R657-3-21(3) and R657-3-26(5)(a).

(2) Notwithstanding Subsection (1), a person may import or possess any dead zoological animal or its parts, except as provided in Section R657-3-8, for a personal use without obtaining a certificate of registration, provided the animal was legally taken, is held in legal possession, and a valid license, permit, tag, certificate of registration, bill of sale, or invoice is available for inspection upon request.

R657-3-18. Collection, Importation or Possession of a Live Zoological Animal for a Commercial Use.

(1)(a) Pursuant to Sections 23-13-13 and 23-20-3, a person may not collect or possess a live zoological animal for a commercial use or commercial venture for pecuniary gain, unless otherwise provided in the rules and proclamations of the Wildlife Board, a certificate of registration or a memorandum of understanding with the division.

(b) Use of brine shrimp for culturing ornamental fish is not a commercial use if the brine shrimp eggs are not sold, bartered, or traded and no more than 200 pounds are collected annually.

(2) A person may import or possess a live zoological animal classified as non-controlled for a commercial use or a commercial venture, except native or naturalized species of zoological animals may not be sold or traded unless they originate from a captive-bred population.

(a) Complete and accurate records for native or naturalized species must be maintained and available for inspection for two years from the date of transaction, documenting the date, name, phone number, and address of the person from whom the zoological animal has been obtained.

(3)(a) A person may not import or possess a live zoological animal classified as controlled for a commercial use or commercial venture, without first obtaining a certificate of registration.

(b) A certificate of registration will not be issued to sell or trade a native or naturalized species of zoological animal unless it originates from a captive-bred population.

(c) It is unlawful to transfer a live zoological animal classified as controlled to a person who does not have a certificate of registration to possess the zoological animal.

(d) Complete and accurate records must be maintained and available for inspection for two years from the date of transaction, documenting the date, name, phone number, and address of the person from whom the zoological animal has been obtained.

(e) Complete and accurate records must be maintained and available for inspection for two years from the date of transfer, documenting the date, name, address and certificate of registration number of the person receiving the zoological animal.

(4)(a) A certificate of registration will not be issued for importing or possessing a live zoological animal classified as prohibited for a commercial use or commercial venture, except as provided in Subsection (b).

(b) The division may issue a certificate of registration to a zoo, circus, amusement park, aviary, or film company to import or possess live species of zoological animals classified as prohibited if, in the opinion of the division, the importation for a commercial use is beneficial to wildlife or significantly benefits the general public without material detriment to wildlife.

(c) The division's authority to issue a certificate of registration to a zoo, circus, amusement park, or aviary under this Subsection is restricted to those facilities that keep the prohibited species of zoological animals in a park, building, cage, enclosure or other structure for the primary purpose of public exhibition or viewing.

(5) It is unlawful to sell or trade any turtle, including tortoises, less than 4" in carapace length.

(6) An entry permit, and a certificate of veterinary inspection are required by the Department of Agriculture to import a live zoological animal classified as noncontrolled, controlled or prohibited.

R657-3-19. Collection, Importation or Possession of Dead Zoological Animals or Their Parts for a Commercial Use.

(1) Pursuant to Sections 23-13-13 and 23-20-3, a person may not collect, import or possess any dead zoological animal or its parts for a commercial use or commercial venture for pecuniary gain, unless otherwise provided in the rules and proclamations of the Wildlife Board, or a memorandum of understanding with the division.

(2) The restrictions in Subsection (1) do not apply to the following:

(a) the commercial use of a dead coyote, jackrabbit, muskrat, raccoon, or its parts;

(b) a business entity that has obtained a certificate of registration from the division to conduct nuisance wildlife control or carcass removal is allowed; and

(c) dead zoological animals sold or traded for educational use.

R657-3-20. Collection, Importation or Possession for Scientific or Educational Use.

A person may collect, import or possess live or dead zoological animals or their parts for a scientific or educational use only as follows:

(1)(a) Certificates of registration are not issued for collecting, importing or possessing live or dead zoological animals classified as prohibited, except as provided in Subsection (b).

(b) The division may issue a certificate of registration to a university, college, governmental agency, bona fide nonprofit institution, or a person involved in wildlife research to collect, import or possess live or dead zoological animals classified as prohibited if, in the opinion of the division, the scientific or educational use is beneficial to wildlife or significantly benefits the general public without material detriment to wildlife.

(2) A person shall obtain a certificate of registration before collecting, importing or possessing live or dead zoological animals or their parts classified as controlled.

(3) A certificate of registration is not required to collect, import or possess live or dead zoological animals classified as noncontrolled, except as provided in Subsections R657-3-21(3) and R657-3-26(5)(a).

R657-3-21. Classification and Specific Rules for Amphibians.

(1) Amphibians are classified as follows:

(a) Bullfrog, Ranidae Family (*Rana catesbeiana*) is prohibited for collection, importation and possession, except as provided in Subsection (5);

(b) Clawed frog, Pipidae Family (*Xenopus*) (All species) is prohibited for collection, importation and possession;

(c) Columbia spotted frog, Ranidae Family (*Rana luteiventris*) is prohibited for collection, importation and possession;

(d) Green frog, Ranidae Family (*Rana clamitans*) is prohibited for collection, importation and possession, except as provided in Subsection (5);

(e) Northern leopard frog, Ranidae Family (*Rana pipiens*) is controlled for collection, importation and possession;

(f) Pacific chorus frog, Ranidae Family (*Pseudacris regilla*) is controlled for collection, importation and possession;

(g) Relict leopard frog, Ranidae Family (*Rana onca*) is prohibited for collection, importation and possession;

(h) Yavapai leopard frog, Ranidae Family (*Rana yavapaiensis*) is prohibited for collection, importation and possession;

(i) Tiger salamander, Ambystomatidae Family (*Ambystoma tigrinum*) is controlled for importation, and noncontrolled for collection and possession as provided in Subsection (4);

(j) Giant (Marine) toad, Bufonidae Family (*Bufo marinus*) is prohibited for collection, importation and possession;

(k) Southwestern toad, Bufonidae Family (*Bufo microscaphus*) is controlled for collection, importation and possession; and

(1) Western toad, Bufonidae Family (*Bufo boreas*)

(2) All species and subspecies of amphibians not listed in Subsection (1):

(a) and not listed in Appendix I or II of CITES are classified as noncontrolled for collection, importation and possession;

(b) and listed in Appendix I of CITES are classified as prohibited for collection, importation and possession;

(c) and listed in Appendix II of CITES are classified as controlled for collection, importation and possession.

(3) A person must obtain a certificate of registration to collect or possess four or more amphibians of each species classified as noncontrolled within a calendar year, except as provided in Subsection (4) and (5).

(4) A person may collect or possess for personal use up to 50 Tiger salamanders (*Ambystoma tigrinum*) without a certificate of registration.

(5) A person may collect or possess any number of Bullfrogs (*Rana catesbeiana*) or Green frogs (*Rana clamitans*) without a certificate of registration provided they are either killed or released immediately upon removing them from the water. A person may not transport a live bullfrog or green frog from the water from which it was collected without first obtaining a certificate of registration.

R657-3-22. Classification and Specific Rules for Birds.

(1) The following birds are classified as noncontrolled for collection, importation and possession:

- (a) Penguins, Spheniscidae Family, (All species);
- (b) Megapodes (Mound-builders), Megapodiidae Family (All species);
- (c) Coturnix quail, Phasianidae Family (*Coturnix* spp.);
- (d) Buttonquails, Turnicidae Family (All species);
- (e) Turacos (including Plantain eaters and Go-away-birds), Musophagidae Family (All species);
- (f) Pigeons and Doves, Columbidae Family (All species not native to North America);
- (g) Parrots, Psittacidae Family (All species not native to North America);
- (h) Rollers, Coraciidae Family (All species);
- (i) Motmots, Momotidae Family (All species);
- (j) Hornbills, Bucerotidae Family (All species);
- (k) Barbets, Capitonidae and Rhamphastidae Families (Capitoninae) (All species not native to North America);
- (l) Toucans, Ramphastidae and Rhamphastidae Families (Ramphastinae) (All species not native to North America);
- (m) Broadbills, Eurylaimidae Family (All species);
- (n) Cotingas, Cotingidae Family (All species);
- (o) Honeyeaters, Meliphagidae Family (All species);
- (p) Leafbirds and Fairy-bluebirds, Irenidae Family (*Irena* spp., *Chloropsis* spp., and *Aegithina* spp.);
- (q) Starlings, Sturnidae Family (All species, except European Starling);
- (r) Babblers, Timaliidae Family (All species);
- (s) White-eyes, Zosteropidae Family (All species);
- (t) Sunbirds, Nectariniidae Family (All species);
- (u) Sugarbirds, Promeropidae Family (All species)
- (v) Weaver finches, Ploceidae Family (All species);
- (i) Estrildid finches (Waxbills, Mannikins, and Munias) Estrildidae Family, (Estrildidae) (Estrildinae) (All species); and
- (ii) Vidua finches (Indigobirds and Whydahs) Viduidae Family, Estrildidae (Viduiniae) (All species);
- (w) Finches and Canaries, Fringillidae Family (All species not native to North America);
- (x) Tanagers (including Swallow-tanager), Thraupidae Family (All species not native to North America); and
- (y) Icterids (Troupials, Blackbirds, Orioles, etc.), Icteridae Family (All species not native to North America, except Central and South American Cowbirds).

(2) The following birds are classified as noncontrolled for collection and possession, and controlled for importation:

- (a) European Starling, Sturnidae Family (*Sturnus vulgaris*);
and

(b) House (English) Sparrow, Passeridae Family (*Passer domesticus*).

(3) The following birds are classified as prohibited for collection and importation, and controlled for possession:

- (a) Icteridae (*Molothrus* spp. and *Scaphidura oryzivora*).
- (4) The following birds are classified as prohibited for collection, importation and possession:
- (a) Ocellated turkey, Phasianidae Family, (*Meleagris ocellata*).
- (5) All species and subspecies of birds and their parts, including feathers, not listed in Subsection (1) through Subsection (4):

(a) and not listed in Appendix I or II of CITES are classified as prohibited for collection and controlled for importation and possession;

(b) and listed in Appendix I of CITES are classified as prohibited for collection and importation and controlled for possession;

(c) and listed in Appendix II of CITES are classified as prohibited for collection and controlled for importation and possession.

R657-3-23. Classification and Specific Rules for Invertebrates.

(1) Crustaceans are classified as follows:

(a) Brine shrimp, Mysidae Family (All species) are classified as controlled for collection, and noncontrolled for importation and possession;

(b) Red-claw crayfish, Astacidae Family (*Cherax quadricarinatus*) is prohibited for collection, and controlled for importation and possession;

(c) Crayfish, Astacidae, Cambaridae and Parastacidae Families (All species except *Cherax quadricarinatus*) are prohibited for collection, importation and possession;

(d) Daphnia, Daphnidae Family (*Daphnia lumholtzi*) are prohibited for collection, importation and possession;

(e) Fishhook water flea, Cercopagidae Family (*Cercopagis pengoi*) is prohibited for collection, importation and possession; and

(f) Spiny water flea, Cercopagidae Family (*Bythotrephes cederstroemii*) is prohibited for collection, importation and possession.

(2) Mollusks are classified as follows:

(a) Brian head mountainsnail, Oreohelicidae Family (*Oreohelix parawanensis*) is controlled for collection, importation and possession;

(b) California floater, Anodontidae Family (*Anodonta californiensis*) is controlled for collection, importation and possession;

(c) Corrugated mountainsnail, Oreohelicidae Family (*Oreohelix haydeni corrugata*) is controlled for collection, importation and possession;

(d) Cummings' mountainsnail, Oreohelicidae Family (*Oreohelix yavapai cummingsi*) is controlled for collection, importation and possession;

(e) Desert mountainsnail, Oreohelicidae Family (*Oreohelix peripherica*) is controlled for collection, importation and possession;

(f) Desert springsnail, Hydrobiidae Family (*Pyrgulopsis deserta*) is controlled for collection, importation and possession;

(g) Desert valvata, Valvatidae Family (Valvata utahensis) is prohibited for collection, importation and possession;

(h) Eureka mountainsnail, Oreohelicidae Family (Oreohelix eurekaensis) is controlled for collection, importation and possession;

(i) Fat-whorled pondsnail, Lymnaeidae Family (Stagnicola bonnevillensis) is controlled for collection, importation and possession;

(j) Fish lake physa, Physidae Family (Physella microstriata) is controlled for collection, importation and possession;

(k) Fish springs marshsnail, Lymnaeidae Family (Stagnicola pilsbryi) is prohibited for collection, importation and possession;

(l) Glossy valvata, Valvatidae Family (Valvata humeralis) is controlled for collection, importation and possession;

(m) Kanab ambersnail, Succineidae Family (Oxyloma kanabense) is prohibited for collection, importation and possession;

(n) Lyrate mountainsnail, Oreohelicidae Family (Oreohelix haydeni) is controlled for collection, importation and possession;

(o) New Zealand mudsnail, Hydrobiidae Family (Potamopyrgus antipodarum) is prohibited for collection, importation and possession;

(p) Quagga mussel, Dreissenidae Family (Dreissena bugenses) is prohibited for collection, importation and possession;

(q) Spruce snail, Thysanophoridae Family (Microphysula ingersolli) is controlled for collection, importation and possession;

(r) Thickshell pondsnail, Lymnaeidae Family (Stagnicola utahensis) is prohibited for collection, importation and possession;

(s) Utah physa, Physidae Family (Physella utahensis) is controlled for collection, importation and possession;

(t) Wet-rock physa, Physidae Family (Physella zionis) is controlled for collection, importation and possession;

(u) Yavapai mountainsnail, Oreohelicidae Family (Oreohelix yavapai) is controlled for collection, importation and possession; and

(v) Zebra mussel, Dreissenidae Family (Dreissena polymorpha) is prohibited for collection, importation and possession.

(3) All species and subspecies of invertebrates not listed in Subsection (1) and (2):

(a) and not listed in Appendix I or II of CITES are classified as noncontrolled for collection, importation or possession;

(b) and listed in Appendix I of CITES are classified as prohibited for collection, importation and possession;

(c) and listed in Appendix II of CITES are classified as controlled for collection, importation and possession.

R657-3-24. Classification and Specific Rules for Fish.

(1) All species of fish are classified as prohibited for collection, importation and possession, except:

(a) Koi, Cyprinidae Family (Cyprinus carpio) is prohibited for collection, and noncontrolled for importation and possession; and

(b) any ornamental fish not listed in this rule and not listed in Appendix I or II of CITES are prohibited for collection, and noncontrolled for importation and possession.

(2) All species and subspecies of fish not listed in Subsection (1):

(a) and not listed in Appendix I or II of CITES are classified as prohibited for collection, and controlled for importation and possession;

(b) and listed in Appendix I of CITES are classified as prohibited for collection, importation and possession;

(c) and listed in Appendix II of CITES are classified as prohibited for collection, and controlled for importation and possession.

R657-3-25. Classification and Specific Rules for Mammals.

(1) Mammals are classified as follows:

(a) Monotremes (Platypus and Spiny anteaters), Ornithorhynchidae and Tachyglossidae Families (All species) are prohibited for collection, and controlled for importation and possession;

(b) Marsupials are classified as follows:

(i) Opossum, Didelphidae Family (Didelphis virginiana) is noncontrolled for collection, prohibited for importation and controlled for possession;

(ii) Sugar glider, Petauridae Family (Petaurus breviceps) is noncontrolled for collection, importation or possession;

(iii) Wallabies, Macropodidae Family (All species) are prohibited for collection and importation, and controlled for possession;

(c) Bats and flying foxes (Chiroptera). All families (All species) are prohibited for collection, importation and possession;

(d) Insectivores (Insectivora) are controlled for collection, importation and possession;

(e) Hedgehogs and Tenrecs, Erinaceidae and Tenrecidae Families, except white bellied hedgehogs are controlled for collection, importation and possession;

(f) Shrews, Soricidae Family (Sorex spp. and Notisorex spp.) are controlled for collection, importation and possession;

(g) Anteaters, Sloths and Armadillos (Xenartha). All families (All species) are prohibited for collection, and controlled for importation and possession;

(h) Aardvark (Tublidentata), Orycteropodidae Family (Orycteropus afer) is prohibited for collection, and controlled for importation and possession;

(i) Pangolins or Scaly Anteaters (Philodota), Manis spp., are prohibited for collection and importation, and controlled for possession;

(j) Tree shrews (Scandentia), Tupalidae Family (All species) are prohibited for collection, and controlled for importation and possession;

(k) Lagomorphs (Rabbits, Hares and Pikas) are classified as follows:

(i) Jackrabbits, Leporidae Family (Lepus spp.) are noncontrolled for collection, and controlled for importation and possession;

(ii) Cottontails, Leporidae Family (Sylvilagus spp.) are prohibited for collection, and controlled for importation and possession;

(iii) Pygmy rabbit, Leporidae Family (Brachylagus idahoensis) is prohibited for collection, and controlled for importation and possession;

(iv) Snowshoe hare, Leporidae Family (Lepus americanus) is prohibited for collection, and controlled for importation and possession;

(v) Pika, Ochotonidae Family (Ochotona princeps) is controlled for collection, importation and possession;

(l) Elephant shrews (Macroscelidea), Macroscelididae Family (All species) are prohibited for collection, and controlled for importation and possession;

(m) Rodents (Rodentia) are classified as follows:

(i) Beaver, Castoridae Family (Castor canadensis) is controlled for collection, importation and possession;

(ii) Muskrat, various mice, voles and woodrats, Cricetidae Family (Ondatra zibethicus) is noncontrolled for collection, and controlled for importation and possession;

(iii) Deer mice and related species, Cricetidae Family (Peromyscus spp.) are controlled for collection, importation and possession;

(iv) Grasshopper mice, Cricetidae Family (Onychomys spp.) are controlled for collection, importation and possession;

(v) Heather vole, Cricetidae Family (Phenacomys intermedius) is controlled for collection, importation and possession;

(vi) Meadow vole, Cricetidae Family (Microtus pennsylvanicus) is noncontrolled for collection, and controlled for importation and possession;

(vii) Red-backed vole, Cricetidae Family (Clethrionomys gapperi) is controlled for collection, importation and possession;

(viii) Sagebrush vole, Cricetidae Family (Lemmiscus curtatus) is controlled for collection, importation and possession;

(ix) Other voles, Cricetidae Family (Microtus spp.) is controlled for collection, importation and possession;

(x) Western harvest mouse, Cricetidae Family (Reithrodontomys megalotis) is controlled for collection, importation and possession;

(xi) Woodrats, Cricetidae Family (Neotoma spp.) are controlled for collection, importation and possession;

(xii) Nutria, Myocastoridae Family (Myocastor coypus) is noncontrolled for collection, prohibited for importation and controlled for possession;

(xiii) Pocket gophers (all species), Geomyidae Family (Thomomys spp.) are noncontrolled for collection, and controlled for importation and possession;

(xiv) Pocket mice, Heteromyidae Family (Perognathus spp. and Chaetodipus intermedius) are controlled for collection, importation and possession;

(xv) Dark kangaroo mouse, Heteromyidae Family (Microdipodops pallidus) is controlled for collection, importation and possession;

(xvi) Kangaroo rats, Heteromyidae Family (Dipodomys spp.) are controlled for collection, importation and possession;

(xvii) Desert kangaroo rat, Heteromyidae Family (Dipodomys deserti) is controlled for collection, importation and possession;

(xviii) Merriam's kangaroo rat, Heteromyidae Family (Dipodomys merriami) is controlled for collection, importation and possession;

(xix) Ord's kangaroo rat, Heteromyidae Family (Dipodomys ordii) is controlled for collection, importation and possession;

(xx) Abert's squirrel, Sciuridae Family, (Sciurus aberti navajo) is prohibited for collection and importation, and controlled for possession;

(xxi) Black-tailed prairie dog, Sciuridae Family (Cynomys ludovicianus) is controlled for collection, and prohibited for importation and possession;

(xxii) Gunnison's prairie dog, Sciuridae Family (Cynomys gunnisoni) is controlled for collection, importation and possession;

(xxiii) Utah prairie dog, Sciuridae Family (Cynomys parvidens) is prohibited for collection, importation and possession;

(xxiv) White-tailed prairie dog, Sciuridae Family (Cynomys leucurus) is controlled for collection, importation and possession;

(xxv) Chipmunks, except Yellow-pine chipmunk, Sciuridae Family (Tamias and Eutamias) is noncontrolled for collection, and controlled for importation and possession;

(xxvi) Yellow-pine chipmunk, Sciuridae Family, (Tamias amoenus) is controlled for collection, importation and possession;

(xxvii) Northern flying squirrel, Sciuridae Family (Glaucomys sabrinus) is controlled for collection, importation and possession;

(xxviii) Southern flying squirrel, Sciuridae Family (Glaucomys volans) is noncontrolled for collection, prohibited for importation, and controlled for possession;

(xxix) Ground squirrel and rock squirrel, except nuisance squirrels, which are noncontrolled for collection, Sciuridae Family (Spermophilus spp. and Ammospermophilus leucurus) are controlled for collection, importation and possession;

(xxx) Red squirrel or chickaree, except for nuisance animals, which are noncontrolled for collection, Sciuridae Family (Tamiasciurus hudsonicus) are noncontrolled for collection, and controlled for importation and possession;

(xxxi) Yellow-bellied marmot, Sciuridae Family, (Marmota flaviventris) is noncontrolled for collection, and controlled for importation and possession;

(xxxii) Western jumping mouse, Zapodidae Family (Zapus princeps) is controlled for collection, importation and possession;

(xxxiii) Porcupine, Erethizontidae Family (Erethizon dorsatum) is noncontrolled for collection, and controlled for importation and possession;

(xxxiv) Other South American rodents, Degus and Octodontidae Families (All species) are noncontrolled for collection, and prohibited for importation and possession;

(xxxv) Dormice, Gliridae and Selevinidae Families (All species) are noncontrolled for collection, and prohibited for importation and possession;

(xxxvi) African pouched rats, Muridae Family (All species) are noncontrolled for collection, and prohibited for importation and possession;

(xxxvii) Jirds, Muridae Family (Meriones spp.) are noncontrolled for collection, and prohibited for importation and possession;

(xxxviii) Pygmy mice, Muridae Family (Mus triton) are noncontrolled for collection, and prohibited for importation and possession;

(xxxix) Spiny mice, Muridae Family (Acomys spp.) is noncontrolled for collection, and prohibited for importation and possession;

(xl) Hyraxes (Hyracoidea), Procaviidae Family (All species) are prohibited for collection, and controlled for importation and possession;

(n) Hoofed mammals (Artiodactyla and Perissodactyla) are classified as follows:

(i) Bison or Buffalo (Wild and free ranging), Bovidae Family (Bison bison) are prohibited for collection, importation and possession;

(ii) Collared peccary or javelina, Tayassuidae Family (Pecari tajacu) is prohibited for collection, importation and possession;

(iii) Deer, Cervidae Family (All species) are prohibited for collection, importation and possession;

(iv) Axis deer, Cervidae Family (Cervus axis) are prohibited for collection, importation and possession;

(v) Caribou, wild and free ranging, Cervidae Family (Rangifer tarandus) are prohibited for collection, importation and possession;

(vi) Caribou, captive-bred, Cervidae Family (Rangifer tarandus) are prohibited for collection, and controlled for importation and possession;

(vii) Elk, wild and free ranging, Cervidae Family (Cervus elaphus) are prohibited for collection, importation and possession;

(viii) Fallow deer, wild and free ranging, Cervidae Family (Cervus dama) are prohibited for collection, importation and possession;

(ix) Fallow deer, captive-bred, Cervidae Family (Cervus dama) are prohibited for collection, and controlled for importation and possession;

(x) Moose, Cervidae Family (Alces alces) are prohibited for collection, importation and possession;

(xi) Mule deer, Cervidae Family (Odocoileus hemionus) are prohibited for collection, importation and possession;

(xii) Red deer, Cervidae Family (Cervus elaphus) are prohibited for collection, importation and possession;

(xiii) Rusa deer, Cervidae Family (Cervus timorensis) are prohibited for collection, importation and possession;

(xvi) Sambar deer, Cervidae Family (Cervus unicolor) are prohibited for collection, importation and possession;

(xvii) Sika deer, Cervidae Family (Cervus nippon) are prohibited for collection, importation and possession;

(xviii) White-tailed deer, Cervidae Family (Odocoileus virginianus) are prohibited for collection, importation and possession;

(xix) Muskox, wild and free ranging, Bovidae Family (Ovibos moschatus) are prohibited for collection, importation and possession;

(xx) Muskox, captive-bred, Bovidae Family (Ovibos moschatus) are prohibited for collection, and controlled for importation and possession;

(xxi) Pronghorn, Antilocapridae Family (Antilocapra americana) are prohibited for collection, importation and possession;

(xxii) Barbary sheep or Aoudad, Bovidae Family (Ammotragus lervia) are prohibited for collection, importation and possession;

(xxiii) Bighorn sheep, Bovidae Family (Ovis canadensis) are prohibited for collection, importation and possession;

(xxiv) Four-horned sheep, Bovidae Family (Tetracerus quadricornis) are prohibited for collection, importation and possession;

(xxv) Mouflon (including hybrids), Bovidae Family (Ovis musimon) is prohibited for collection, importation and possession;

(xxvi) Rocky Mountain goat, Bovidae Family (Oreamnos americanus) is prohibited for collection, importation and possession;

(o) Carnivores (Carnivora) are classified as follows:

(i) Bears, Ursidae Family (Ursus, all species) are prohibited for collection, importation and possession;

(ii) Coyote, Canidae Family (Canis latrans) is noncontrolled for collection, prohibited for importation, and controlled for possession;

(iii) Fennec fox, Canidae Family (Vulpes zerda) is prohibited for collection, importation and possession;

(iv) Gray fox, Canidae Family (Urocyon cinereoargenteus) is controlled for collection, importation and possession;

(v) Kit fox, Canidae Family (Vulpes macrotis) is controlled for collection, importation and possession;

(vi) Red fox, Canidae Family (Vulpes vulpes) is noncontrolled for collection, prohibited for importation and possession;

(vii) Gray wolf, except hybrids with domestic dogs, Canidae Family (Canis lupus) is prohibited for collection, importation and possession;

(viii) Bobcat, Felidae Family (Felis rufus) is prohibited for collection and importation, and controlled for possession;

(ix) Cougar, Felidae Family (Felis (Puma) concolor) is prohibited for collection, importation and possession;

(x) Lynx, Felidae Family (Felis lynx) is prohibited for collection, importation and possession;

(xi) Badger, Mustelidae Family (Taxidea taxus) is prohibited for collection and importation, and controlled for possession;

(xii) Black-footed ferret, Mustelidae Family (Mustela nigripes) is prohibited for collection, importation or possession;

(xiii) Ermine or short-tailed weasel, Mustelidae Family (Mustela erminea) is prohibited for collection and importation, and controlled for possession;

(xiv) Long-tailed weasel, Mustelidae Family (Mustela frenata) is prohibited for collection and importation, and controlled for possession;

(xv) Marten, except captive-bred marten used for commercial fur breeding, Mustelidae Family (Martes americana) is prohibited for collection, importation and possession;

(xvi) Mink, except domestic forms, Mustelidae Family (Mustela vison) is prohibited for collection, importation and possession;

(xvii) Northern River Otter, Mustelidae Family (Lutra canadensis) is prohibited for collection, importation and possession;

(xviii) Striped skunk, except nuisance skunks, which are noncontrolled for collection, Mustelidae Family (Mephitis mephitis) is controlled for collection, prohibited for importation, and controlled for possession;

(xix) Western spotted skunk, Mustelidae Family (Spilogale gracilis) is controlled for collection, prohibited for importation, and controlled for possession;

(xx) Wolverine, Mustelidae Family (Gulo gulo) is prohibited for collection, importation and possession;

(xxi) Coatis, Procyonidae Family (Nasua spp. and Nasuella spp.) is prohibited for collection, importation and possession;

(xxii) Kinkajou, Procyonidae Family (Potos flavus) is prohibited for collection, importation and possession;

(xxiii) Raccoon, Procyonidae Family (Procyon lotor) is noncontrolled for collection, prohibited for importation, and controlled for possession;

(xxiv) Ringtail, Procyonidae Family (Bassariscus astutus) is prohibited for collection, importation and possession;

(p) Primates (Prosimians) (Lower Primates) are classified as follows:

(i) Lemurs, Lemuridae Family (All species) are prohibited for collection, importation and possession;

(ii) Dwarf and mouse lemurs, Cheirogaleidae Family (All species) are prohibited for collection, importation and possession;

(iii) Indri and sifakas, Indriidae Family (All species) are prohibited for collection, importation and possession;

(iv) Aye aye, Daubentonidae Family (Daubentonia madagascensis) is prohibited for collection, importation and possession;

(v) Bush babies, pottos and lorises, Lorisidae Family (All species) are prohibited for collection, importation and possession;

(vi) Tarsiers, Tarsiidae Family (All species) are prohibited for collection, importation and possession;

(vii) Capuchin-like monkeys, Cebidae Family (All species) are prohibited for collection, importation and possession;

(viii) Marmosets and tamarins, Callitrichidae Family (All species) are prohibited for collection, importation and possession;

(ix) Old-world monkeys, which includes baboons and macaques, Cerpithecidae Family (All species) are prohibited for collection, importation and possession;

(x) Great apes (Gorilla, chimpanzee and orangutan), Pongidae Family (All species) are prohibited for collection, importation and possession;

(xi) Lesser apes (Siamang and gibbons), Hylobatidae Family (All species) are prohibited for collection, importation and possession;

(2) All species and subspecies of mammals and their parts, not listed in Subsection (1):

(a) and not listed in Appendix I or II of CITES are classified as prohibited for collection and controlled for importation and possession;

(b) and listed in Appendix I of CITES are classified as prohibited for collection and importation and controlled for possession;

(c) and listed in Appendix II of CITES are classified as prohibited for collection and controlled for importation and possession.

R657-3-26. Classification and Specific Rules for Reptiles.

(1) Reptiles are classified as follows:

(a) Crocodiles are classified as follows:

(i) Alligators and caimans, Alligatoridae Family (All species) are prohibited for collection, importation and possession;

(ii) Crocodiles, Crocodylidae Family (All species) are prohibited for collection, importation and possession;

(iii) Garial, Gavialidae Family (Vavialis gangeticus) is prohibited for collection, importation and possession;

(b) Lizards are classified as follows:

(i) Chuckwalla, Iguanidae Family (Sauromalus) (All species) are prohibited for collection, and controlled for importation and possession;

(ii) Desert iguana, Iguanidae Family (Dipsosaurus dorsalis) is prohibited for collection, and controlled for importation and possession;

(iii) Gila monster, Helodermatidae Family (Heloderma suspectum) is prohibited for collection, importation and possession;

(iv) Many-lined skink, Scincidae Family (Eumeces multivirgatus gaigeae) is controlled for collection, importation and possession;

(v) Night lizard, Xantusiidae Family (Xantusia vigilis) is controlled for collection, importation and possession;

(vi) Plateau striped whiptail, Teiidae Family (Cnemidophorus velox) is controlled for collection, importation and possession;

(vii) Side-blotched lizard, Phrynosomatidae Family (Uta stansburiana) is noncontrolled collection, importation and possession, except as provided in Section R657-3-26(5);

(viii) Utah banded Gecko, Gekkonidae Family (Coleonyx variegatus utahensis) is controlled for collection, importation and possession;

(ix) Mojave zebra-tailed lizard, Phrynosomatidae Family (Callisaurus draconoides rhodostictus) is controlled for collection, importation and possession;

(c) Snakes are classified as follows:

(i) Bird Snake, Colubridae Family (Thelotornis) (All species) are prohibited for collection, importation and possession;

(ii) Boomslang, Colubridae Family (Dispholidus typus) is prohibited for collection, importation and possession;

(iii) Burrowing asps, Atractaspidae Family (All species) are prohibited for collection, importation and possession;

(iv) California kingsnake (banded-form), Colubridae Family (Lampropeltis getula californiae) is controlled for collection, importation and possession;

(v) Glossy snake, Colubridae Family (Arizona elegans) is controlled for collection, importation and possession;

(vi) Great Plains rat snake, Colubridae Family (Elaphe guttata emoryi) is controlled for collection, importation and possession;

(vii) Keelback, Colubridae Family (Rhabdophis) (All species) are prohibited for collection, importation and possession;

(viii) Mojave patch-nosed snake, Colubridae Family (Salvadora hexalepis mojavnensis) is controlled for collection, importation and possession;

(ix) Pit vipers, Viperidae Family (All species, except Crotalus viridis) are prohibited for collection, importation and possession;

(x) Proteroglyphous snakes, Australian spp., cobras, coral snakes, kraits, and their allies, Elapidae Family (All species) are prohibited for collection, importation and possession;

(xi) Sonoran lyre snake, Colubridae Family (Trimorphodon biscutatus lambda) are prohibited for collection, importation and possession;

(xii) Southwestern black-headed snake, Colubridae Family (Tantilla hobartsmithi) is controlled for collection, importation and possession;

(xiii) Utah blind snake, Leptotyphlopidae Family (Leptotyphlops humilis utahensis) is controlled for collection, importation and possession;

(xiv) Utah milk snake, Colubridae Family (Lampropeltis triangulum taylori) is prohibited for collection, importation and possession;

(xv) Utah mountain kingsnake, Colubridae Family (Lampropeltis pyromelana infralabialis) is prohibited for collection, importation and possession;

(xvi) Western rattlesnake, Viperidae Family (Crotalus viridis) is controlled for collection, prohibited for importation, and controlled for possession;

(xvii) Western smooth green snake, Colubridae Family (Liochlorophis vernalis blanchardi) is controlled for collection, importation and possession;

(xviii) Western terrestrial garter snake, Colubridae Family (Thamnophis elegans) is noncontrolled for collection, importation and possession, except as provided in Section R657-3-26(5);

(d) Turtles are classified as follows:

(i) Desert tortoise, Testudinidae Family (Gopherus agassizii) is prohibited for collection, importation and possession;

(ii) Snapping turtle, Chelydridae Family (Chelydra serpentina) is prohibited for collection, importation and possession, except as provided in Section R657-3-26(6);

(iii) Spiny softshell, Trionychidae Family (Apalone spinifera) is prohibited for collection, importation and possession, except as provided in Section R657-3-26(6).

(2) All species and subspecies of reptiles not listed in Subsection (1);

(a) and not listed in Appendix I or II of CITES are classified as noncontrolled for collection, importation and collection;

(b) and listed in Appendix I of CITES are classified as prohibited for collection, importation and possession;

(c) and listed in Appendix II of CITES are classified as controlled for collection, importation and possession.

(3) A person may not:

(a) disturb the den of any reptile or kill, capture, or harass any reptile within 100 yards of a reptile den without first obtaining a certificate of registration from the division; or

(b) indiscriminately kill any reptile.

(4)(a) Western rattlesnakes may be killed without a certificate of registration only for reasons of human safety.

(b) The carcass of a Western rattlesnake killed pursuant to Subsection (a) may be retained for personal use only.

(5)(a) A person must obtain a certificate of registration to collect, import, or possess four or more reptiles of each species classified as noncontrolled within a calendar year, except as provided in Subsection (5)(b) and Subsection (6).

(b) A person may collect and possess any number of side-blotched lizards and western terrestrial garter snakes without obtaining a certificate of registration.

(6) A person may collect or possess any number of snapping turtles or spiny softshell turtles without a certificate of registration provide they are either killed or released immediately upon removing them from the water. A person may not transport a live snapping turtle or spiny softshell turtle from the water from which it was collected without first obtaining a certificate of registration.

R657-3-27. Importation of Zoological Animals into Utah.

(1) As provided in Rule R58-1, the Department of Agriculture and Food requires a valid certificate of veterinary inspection and an entry permit number before any zoological animal may be imported into Utah.

(2)(a) All live fish imported into Utah and not destined for an aquaculture facility or fee fishing facility must be accompanied by the following documentation:

(i) common or scientific names of fish;

(ii) name and address of the consignor and consignee;

(iii) origin of shipment;

(iv) final destination; and

(v) number of fish shipped.

(b) A person may import live fish destined for an aquaculture facility or fee fishing facility only as provided by Title 4, Chapter 37, Aquaculture Act and the rules promulgated thereunder.

(3) Subsection (2)(a) does not apply to fish or crayfish caught in Lake Powell, Bear Lake, or Flaming Gorge reservoirs under the authority of a valid fishing license and in accordance with Rule R657-13 and the proclamation of the Wildlife Board for taking fish and crayfish.

R657-3-28. Transporting Live Zoological Animals Through Utah.

(1) Any zoological animal may be transported through Utah without a certificate of registration if:

(a) the zoological animal remains in Utah no more than 72 hours; and

(b) the zoological animal is not sold, transferred, exhibited, displayed, or used for a commercial venture while in Utah.

(2) A certificate of veterinary inspection is required from the state of origin as provided in Rule R58-1 and proof of legal possession must accompany the zoological animal.

(3) If delays in transportation arise, an extension of the 72 hours may be requested by contacting the Wildlife Registration Office in Salt Lake City.

R657-3-29. Importing Zoological Animals into Utah for Processing.

(1) A person shipping zoological animals directly to a state or federally regulated establishment for processing is not required to obtain a certificate of registration or certificate of veterinary inspection provided the animals or their parts are accompanied by a waybill or other proof of legal ownership describing the animals, their source, and indicating the destination.

(2) Any water used to hold or transport fish may not be emptied into a stream, lake, or other natural body of water.

R657-3-30. Transfer of Possession.

(1) A person may possess a zoological animal classified as prohibited or controlled only after applying for and obtaining a certificate of registration from the division as provided in this rule.

(2) Any person who possesses a zoological animal classified as prohibited or controlled may transfer possession of that zoological animal only to a person who has first applied for and obtained a certificate of registration for that zoological animal from the division.

(3) The division may issue a certificate of registration granting the transfer and possession of that zoological animal only if the applicant meets the issuance criteria provided in Section R657-3-14.

R657-3-31. Propagation.

(1) A person may propagate zoological animals classified as noncontrolled for possession.

(2) A person may propagate zoological animals classified as controlled for possession only after obtaining a certificate of registration from the division, or as otherwise authorized in Sections R657-3-32, R657-3-33, R657-3-34 and R657-3-35.

(3) A person may not propagate zoological animals classified as prohibited for possession, except as authorized in Sections R657-3-32, R657-3-33 and R657-3-34 and R657-3-35.

R657-3-32. Propagation of Raptors.

(1) A person may propagate raptors only as provided in this section and Section 50 CFR 21.30, 1999, ed., which is incorporated by reference. All applicants for captive breeding permits must become familiar with this rule and the applicable federal regulations.

(2) A person must apply for a federal raptor propagation permit and a certificate of registration from the division to propagate raptors.

(3) If the applicant requests authority to use raptors taken from the wild, the regional director of the U.S. Fish and Wildlife Service in consultation with the avian program coordinator must determine the following:

(a) whether issuance of the permit would have significant effect on any wild population of raptors;

(b) whether suitable captive stock is available; and

(c) whether wild stock is needed to enhance the genetic variability of captive stock.

(4) Raptors may not be taken from the wild for captive breeding, except as provided in Subsection (3).

(5) A person must obtain authorization from the division before importing raptor semen into Utah or importing captive-raised raptors for sale. The authorization shall be noted on the certificate of registration.

(6) A person may sell a captive-bred raptor properly marked with a band approved by the U.S. Fish and Wildlife Service or issued by the U.S. Fish and Wildlife Service to a raptor breeder who has a valid federal and state license or to state and federally licensed general or master class falconer.

(7) A permittee may not purchase, sell or barter any raptor eggs, any raptors taken from the wild, any raptor semen collected from the wild, or any raptors hatched from eggs taken from the wild.

(8) Each captive bred raptor brought into Utah must be accompanied by a valid certificate of veterinary inspection issued by an accredited veterinarian from the state of origin.

(9) A permittee may use raptors held in possession for propagation in the sport of falconry only if such use is designated on both the propagation permit and the permittee's falconry permit.

(10) Raptors used for falconry on temporary loan to a breeding project, with the division's authorization and accompanied by a Form 3-186A, Migratory Bird Acquisition and Disposition Report, provided by the U.S. Fish and Wildlife Service, must be included in the loaning falconer's bird number limitation as permitted in the license class designation.

(11)(a) Hybridization with the female of a species which is endangered or threatened is prohibited.

(b) Interspecific hybridization between species is authorized only if each raptor produced is either imprinted on humans or surgically sterilized.

(i) "Imprinted on humans" means hand-raised in isolation from the sight of other raptors from two weeks of age until it is fully feathered.

(c) Documentation of imprinting on humans required under Subsection (b) must be provided by the propagator.

(12) Raptors considered unsuitable for release to the wild from rehabilitation projects, and certified as not releasable by a licensed veterinarian, may be placed in a captive breeding project

upon written request from an authorized breeder and with concurrence of the U.S. Fish and Wildlife Service and the division.

(13) A copy of the propagator's annual report of activities required by the U.S. Fish and Wildlife Service must be sent to the division as specified on the certificate of registration.

R657-3-33. Propagation of Bobcat, Lynx, and Marten.

(1)(a) A person may propagate captive-bred bobcat, lynx, or marten only after obtaining a certificate of registration from the division.

(b) The certificate of registration must be renewed annually.

(c) Renewal of a certificate of registration will be subject to submission of a report indicating:

(i) the number of progeny produced;

(ii) the animals disposition; and

(iii) a certificate of inspection by a licensed veterinarian verifying that the animals are being maintained under healthy and nutritionally adequate conditions.

(2)(a) Any person engaged in propagation must keep at least one male and one female in possession.

(b) Live bobcat, lynx, and marten may not be obtained from the wild.

(c) Bobcat, lynx, and marten held for propagation shall not be maintained as pets and shall not be declawed or defanged.

(3) The progeny and descendants of any bobcat, lynx, or marten may be pelted or sold.

(4)(a) If any bobcat, lynx, or marten is sold live to a person residing in Utah, the purchaser must have first obtained a certificate of registration from the division and must show proof of this fact to the seller.

(b) The offense of selling or transferring a live bobcat, lynx, or marten to a person who has not obtained a certificate of registration shall be punishable against both the transferor and the transferee.

(5)(a) Each pelt must have attached to it a permanent possession tag before being sold, bartered, traded, or transferred to another person.

(b) Permanent possession tags may be obtained at any regional division office and shall be affixed to the pelt by a division employee.

(6) The progeny of bobcat, lynx, or marten may not be released to the wild.

(7) Nothing in this section shall be construed to allow a person holding a certificate of registration for propagation to use or possess a bobcat, lynx, or marten for any purpose other than propagation without express authorization on the certificate of registration.

R657-3-34. Propagation of Reptiles.

(1) A person may propagate the following species of snakes only after obtaining a certificate of registration:

(a) California kingsnake (*Lampropeltis getula californiae*) (banded form);

(b) Great Plains rat snake (*Elaphe guttata emoryi*); and

(c) Mojave patch-nosed snake (*Salvadora hexalepis mojaviensis*).

(2)(a) The division may issue a total of six certificates of registration for captive breeding.

(b) Certificates of registration for the propagation of reptiles are issued on a one per household basis annually.

(c) Application forms are available from the Wildlife Registration Office and must be submitted during the month of January.

(d) If more applications are received than the number of available certificates of registration, a public drawing will be held on the second Friday in February to determine successful applicants.

(3) Certificates of registration may be issued to an applicant who:

(a) is a resident of Utah;

(b) presents written documentation showing at least five years of experience in reptile husbandry and at least three years of experience in the captive propagation of reptiles;

(c) is able to demonstrate the ability to provide and maintain suitable, disease-free facilities to humanely hold and maintain reptiles in good condition;

(d) is able to demonstrate the ability to prevent commingling with other reptiles not collected under the authority of a certificate of registration;

(e) has not been convicted of any wildlife violation involving reptiles within the past five years; and

(f) presents documentation to the division showing that captive breeding is allowed in the county or other political subdivision in which the applicant resides.

(4) The disposition of any reptile held in possession under the authority of a certificate of registration and its progeny and descendants born in captivity remain property of the state of Utah and shall be determined by the division in accordance with the needs for public health, welfare, and safety, and impacts on wildlife.

R657-3-35. Propagation of Caribou, Fallow Deer, Musk-ox, and Reindeer.

(1)(a) A person may propagate captive-bred caribou, fallow deer, musk-ox, or reindeer only after obtaining a certificate of registration from the division.

(b) Any person engaged in the propagation of caribou, fallow deer, musk-ox, or reindeer must submit an annual report identifying the disposition of each animal held in possession during the year.

(2)(a) If any live caribou, fallow deer, musk-ox, or reindeer is sold, traded, or given to another person as a gift in Utah, the purchaser must have first obtained a certificate of registration from the division and must show proof of this fact to the seller.

(b) The offense of selling or transferring a live caribou, fallow deer, musk-ox, or reindeer to a person who has not obtained a certificate of registration shall be punishable against both the transferor and the transferee.

(3) If, at any time, the division determines that the possession or propagation of caribou, fallow deer, musk-ox, or reindeer has a significantly detrimental effect to the health of any population of wildlife, the division may:

(a) terminate the authorization for propagation; and

(b) require the removal or destruction of the animals at the owner's expense.

R657-3-36. Violations.

(1) Any violation of this rule is a class C misdemeanor, as provided in Section 23-13-11.

(2) Nothing in this rule shall be construed to supersede any provision of Title 23, Wildlife Resources Code of Utah which establishes a penalty greater than a class C misdemeanor. Any provision of this rule which overlaps a provision of that title is intended only as a clarification or to provide greater specificity needed for the administration of the provisions of this rule.

R657-3-37. Certification Review Committee.

(1) The division shall establish a Certification Review Committee which shall be responsible for:

(a) reviewing:

(i) petitions to reclassify species and subspecies of zoological animals;

(ii) appeals of certificates of registration; and

(iii) requests for variances to this rule;

(b) making recommendations to the Wildlife Board; and

(c) preparing and maintaining a Minimum Facility and Health Standards Guide.

(2) The committee shall consist of the following individuals:

(a) the director or the director's designee who shall represent the director's office and shall act as chair of the committee;

(b) the chief of the Aquatic Section;

(c) the chief of the Wildlife Section;

(d) the chief of the Public Services Section;

(e) the state veterinarian or his designee; and

(f) a person designated by the Department of Health.

(3) The Minimum Facility and Health Standards Guide shall include:

(a) minimum facility and caging standards necessary for the protection of zoological animals held in possession, prevention of escape, and protection of the public and other animals; and

(b) minimum care that must be provided to the zoological animals, including veterinary care, vaccinations, and other health considerations.

(4) The division shall require a fee for the submission of a request provided in Section R657-3-38 and R657-3-39.

R657-3-38. Request for Species Reclassification.

(1) A person may make a request to change the classification of a species or subspecies of zoological animal provided in this rule.

(2) A request for reclassification must be made to the Certification Review Committee by submitting an application for reclassification.

(3)(a) The application shall include:

(i) the petitioner's name, address, and phone number;

(ii) the species or subspecies for which the application is made;

(iii) the name of all interested parties known by the petitioner;

(iv) the current classification of the species or subspecies;

(v) a statement of the facts and reasons forming the basis for the reclassification; and

(vi) copies of scientific literature or other evidence supporting the change in classification.

(b) In addition to the information required under Subsection (a), the petitioner must provide any information requested by the committee necessary to formulate a recommendation to the Wildlife Board.

(3)(a) The committee shall, within a reasonable time, consider the request for reclassification and shall submit its recommendation to the Wildlife Board.

(b) The committee shall send a copy of its recommendation to the petitioner and other interested parties specified on the application.

(4)(a) At the next available Wildlife Board meeting the Wildlife Board shall:

(i) consider the committee recommendation; and

(ii) any information provided by the petitioner or other interested parties.

(b) The Wildlife Board shall approve or deny the request for reclassification based on the issuance criteria provided in Section R657-3-14.

(5) A change in species classification shall be made in accordance with Title 63, Chapter 46a, Administrative Rulemaking Act.

(6) A request for species reclassification shall be considered a request for agency action as provided in Subsection 63-46b-3(3) and Rule R657-2.

R657-3-39. Request for Variance.

(1) A person may make a request for a variance to this rule for the collection, importation, propagation, or possession of a zoological animal classified as prohibited under this rule by submitting a request for variance to the Certification Review Committee.

(2)(a) A request for variance shall include the following:

(i) the name, address, and phone number of the person making the request;

(ii) the species or subspecies of zoological animal and associated activities for which the request is made; and

(iii) a statement of the facts and reasons forming the basis for the variance.

(b) In addition to the information required under Subsection (a), the person making the request must provide any information requested by the committee necessary to formulate a recommendation to the Wildlife Board.

(3) The committee shall, within a reasonable time, consider the request and shall submit its recommendation to the Wildlife Board.

(4) At the next available Wildlife Board meeting the Wildlife Board shall:

(a) consider the committee recommendation; and

(b) any information provided by the person making the request.

(5)(a) The Wildlife Board shall approve or deny the request based on the issuance criteria provided in Section R657-3-14.

(b) If the request applies to a broad class of persons and not to unique circumstances of the applicant, the Wildlife Board shall consider changing the species classification before issuing a variance to this rule.

(6)(a) If the request is approved, the Wildlife Board may impose any restrictions on the person making the request considered necessary for that person to maintain the standards upon which the variance is made.

(b) Any restrictions imposed on the person making the request shall be included in writing on the certificate of registration which shall be signed by the person making the request before its issuance.

(7) A request for variance shall be considered a request for agency action as provided in Subsection 63-46b-3(3) and Rule R657-2.

R657-3-40. Appeal of Certificate of Registration Denial.

(1) A person may appeal the denial of a certificate of registration by submitting an appeal request to the Certification Review Committee.

(2) The request must be made within 30 days after the date of the denial.

(3) The request shall include:

(a) the name, address, and phone number of the petitioner;

(b) the date the request was mailed;

(c) the species or subspecies of zoological animals and the activity for which the application was made; and

(d) supporting facts and other evidence applicable to resolving the issue.

(4) The committee shall review the request within a reasonable time after it is received.

(5) Upon reviewing the application and the reasons for its denial, the committee may:

(a) overturn the denial and approve the application; or

(b) uphold the denial.

(6) The committee may overturn a denial if the denial was:

(a) based on insufficient information;

(b) inconsistent with prior action of the division or the Wildlife Board;

(c) arbitrary or capricious; or

(d) contrary to law.

(7)(a) Within a reasonable time after making its decision, the committee shall mail a notice to the petitioner specifying the reasons for its decision.

(b) The notice shall include information that a person may seek Wildlife Board review of that decision.

(8)(a) If the committee upholds the denial, the petitioner may seek Wildlife Board review of the decision by submitting a request for Wildlife Board review within 30 days after its issuance.

(b) The request must include the information provided in Subsection (3).

(9)(a) Upon receiving a request for Wildlife Board review, the Wildlife Board shall, within a reasonable time, hold a hearing to consider the request.

(b) The Wildlife Board may:

(i) overturn the denial and approve the application; or

(ii) uphold the denial.

(c) The Wildlife Board shall provide the petitioner with a written decision within a reasonable time after making its decision.

(10) An appeal contesting initial division determination of eligibility for a certificate of registration shall be considered a request for agency action as provided in Subsection 63-46b-3(3) and Rule R657-2.

KEY: wildlife, animal protection, import restrictions, zoological animals*

2001

Notice of Continuation June 16, 1997

23-14-18

23-14-19

23-20-3

23-13-14

63-30-1 et seq.



Natural Resources, Wildlife Resources **R657-43** Landowner Permits

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23675

FILED: 04/16/2001, 17:55

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to provide that crop lands, which provide habitat for deer and contribute to meeting unit management plan objectives, will be considered qualifying land for landowner permits.

SUMMARY OF THE RULE OR CHANGE: This amendment allows crop land as eligible property when applying for and obtaining landowner permits. Provisions are added, which allow a lessee of the eligible land to apply for and obtain landowner permits. The definition of "immediate family" is being amended to add in-laws of the landowner or lessee to be eligible to purchase landowner permits. Provisions are amended to allow landowners, if land is owned in more than one region, to select a permit in either region. Provisions are being added to provide a process for obtaining permits if there are more applicants than the number of permits. Other changes are being made for consistency and clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: These amendments allow additional opportunity in obtaining general landowner buck deer permits, and provide clarification. Therefore, the Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the state budget or the DWR's budget.

❖LOCAL GOVERNMENTS: None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖OTHER PERSONS: These amendments allow additional opportunity in obtaining general landowner buck deer permits, and provide clarification. Therefore, the

amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These amendments are for clarification. The DWR determines that there are no additional compliance costs associated with these amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Natural Resources
Wildlife Resources
Suite 2110
1594 West North Temple
PO Box 146301
Salt Lake City, UT 84114-6301, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdwr.dsundell@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: John Kimbal, Director

R657. Natural Resources, Wildlife Resources.

R657-43. Landowner Permits.

R657-43-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19, this rule provides the standards and procedures for private landowners to obtain landowner permits for:

(a) taking buck deer within the general regional hunt boundary area where the landowner's property is located during the general deer hunt only; and

(b) taking bull elk, buck deer or buck pronghorn within a limited entry unit.

(2) In addition to this rule, any person who receives a landowner permit must abide by Rule R657-5 and the proclamation of the Wildlife Board for taking big game.

(3) The intent of the general landowner buck deer permit is to provide an opportunity for landowners, lessees, or their immediate family, whose property provides habitat for deer, to ~~[hunt deer during the]~~purchase a general deer ~~[hunt within]~~permit for the general regional hunt boundary area where the landowner's property is located.

(4) The intent of the limited entry landowner permit is to provide an opportunity for landowners, whose property provides habitat for deer, elk, or pronghorn, to be allocated a restricted number of permits for a ~~[specific unit]~~limited entry bull elk, buck

deer, or buck pronghorn unit, where the landowner's property is located. Allowing landowners a restricted number of permits:

- (a) encourages landowners to manage their land for wildlife;
- (b) compensates the landowner for providing private land as habitat for wildlife; and
- (c) allows the Division to increase big game numbers on specific units.

R657-43-2. Definitions.

- (1) Terms used in this rule are defined in Section 23-13-2.
- (2) In addition:
 - (a) "Eligible property" means:
 - (i) private land that provides habitat for deer, elk or pronghorn as determined by the Division of Wildlife Resources;
 - (ii) private land that is not used in the operation of a Cooperative Wildlife Management Unit;
 - (iii) private land that is not used in the operation of an elk farm or elk hunting park;
 - (iv) land in agricultural use as provided in Section 59-2-502 and eligible for agricultural use valuation as provided in Sections 59-2-503 and 59-2-504; and
 - (v) for the purpose of receiving general buck deer permits, a minimum of 640 acres~~[-or more]~~ of private ~~non-cropland~~ land owned or leased by one landowner within the ~~designated region for general deer permits; or~~ general regional hunt boundary; or
 - (vi) private land, including crop land owned by members of a landowner association for limited entry permits.
 - (b) "Immediate family" means the landowner's or lessee's spouse, children, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchildren, and grandchildren.
 - (c) "Landowner" means any ~~individual, family~~ person, partnership, or corporation who owns property in Utah and whose name appears on a deed as the owner of eligible property or whose name appears as the purchaser on a contract for sale of eligible property.
 - (d) "Landowner association" means an organization of private landowners who own property within a limited entry unit, organized for the purpose of working with the Division.
 - (e) "Lessee" means any person, partnership, or corporation whose name appears as the Lessee on a written lease, for at least a one-year period, for eligible property used for farming or ranching purposes, and who is in actual physical control of the eligible property.
 - (f) "Limited entry unit" means a specified geographical area that is closed to hunting deer, elk or pronghorn to any person who has not obtained a valid permit to hunt in that unit.
 - (f) ~~"Immediate family" means the landowner's spouse, children, father, mother, brother, sister, stepchildren, and grandchildren.~~
 - (g) "Voucher" means a document issued by the Division to a landowner, landowner association, or Cooperative Wildlife Management Unit operator, allowing a landowner, landowner association, or Cooperative Wildlife Management Unit operator to designate who may purchase a landowner big game hunting permit from a Division office.

R657-43-3. Qualifications for General Landowner Buck Deer Permits.

- (1) The director, upon approval of the Wildlife Board, may establish a number of general landowner buck deer permits within ~~the general regional hunt boundary area where the landowner's property is located~~ each region to be offered to eligible landowners or lessees for the general deer hunting season only.
- (2) Only private lands will be considered in qualifying for general landowner buck deer permits. Public or state lands are not eligible.
- (3) ~~General landowner~~ Crop lands will be considered in qualifying for general landowner buck deer permits if the crop lands provide habitat for deer and contribute to meeting unit management plan objectives.
- (4) General landowner buck deer permits are limited to resident or nonresident landowners~~[-corporations; or~~ lessees, and members of their immediate family~~[-that own land in Utah].~~

R657-43-4. Qualifications for Limited Entry Permits.

- (1) The Director, upon approval of the Wildlife Board, may establish a number of bull elk, buck deer and buck pronghorn limited entry permits to be offered to an eligible landowner association.
- (2) Limited entry landowner permits are available for taking buck deer, bull elk or buck pronghorn, and may only be used on designated limited entry units.
- (3) Only private lands that do not qualify for Cooperative Wildlife Management Units will be considered for limited entry landowner permits. Public or state lands are not eligible.
- (4) Only private lands that qualify as eligible property will be considered for limited entry landowner permits.
- (5) Applications for limited entry landowner permits will be received from landowner associations only.
- (6) Only one landowner association, per species, may be formed for each limited entry unit as follows:
 - (a) A landowner association may be formed only if a simple majority of landowners, representing 51 percent of the eligible private lands within the herd unit, enter into a written agreement to form the association.
 - (b) The association may not unreasonably restrict membership to other qualified landowners in the unit.
 - (c) Each landowner association must elect a chairperson to represent the landowner association.
 - (d) The landowner association chairperson shall act as liaison with the Division and the Wildlife Board.
 - (e) A landowner or landowner association may not restrict legal established passage through private land to access public lands for the purpose of hunting.

R657-43-5. Application for General Landowner Buck Deer Permits.

- (1) Applications for general landowner buck deer permits are available from Division offices.
- (2) Only one ~~representative~~ eligible landowner or lessee may submit an application for ~~lands~~ the same parcel of land within the respective general regional hunt boundary area~~[-that qualify for general landowner permits].~~

(3) In cases where more than one application is received for the same parcel of land, all applications will be rejected.

(4) Applications must include:

(a) total acres owned within the respective general regional hunt boundary area;

(b) signature of the landowner; and

(c) location of the private lands, acres owned, county and region.

(5) In cases where the landowner's or lessee's land is in more than one general regional hunt boundary area, the landowner or lessee may select one of those regions from which to receive the permit.

(6) A \$5 non-refundable handling fee must accompany each application.

~~[(6)](7)~~ Applications will be available by January 7.

~~[(7)](8)~~ Applications must be completed and returned to the regional Division office ~~[by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board].~~

~~[(8) Signature]~~ (9) The signature on the application will serve as an affidavit certifying ownership.

R657-43-6. Application for Limited Entry Permits.

(1) Applications for limited entry landowner permits are available from Division offices and from Division wildlife biologists.

(2) Applications to receive limited entry landowner permits must be submitted by a landowner association for lands within the limited entry hunt unit where the private lands are located.

(3) Applications must include:

(a) total acres owned by the association within the limited entry hunting unit and a map indicating the privately owned big game habitat;

(b) signature of each of the landowners within the association including acres owned, with said;

~~—(c)—~~ signature ~~[on the application will serve]~~ serving as an affidavit certifying ownership;

~~[(d)](c)~~ a distribution plan for the allocation of limited entry permits by the association;

~~[(e)](d)~~ a copy of the association by-laws; and

~~[(f)](e)~~ a \$5 non-refundable handling fee.

(4) The Division shall, upon request of the applicant, provide assistance in preparing the application.

(5) Applications must be completed and returned to the ~~Division wildlife biologist in the~~ appropriate [region] Division office by September 1 annually.

(6) The Division shall forward the application and other documentation to the Regional Wildlife Advisory Councils for public review.

(7) Recommendations by the Councils will then be forwarded to the Wildlife Board for review and action.

(8) Upon approval by the Wildlife Board, a Certificate of Registration will be issued to the landowner association.

R657-43-7. General Permits and Season Dates.

(1) The following number of general landowner buck deer permits may be available to a landowner or lessee:

(a) one general landowner buck deer permit may be issued for eligible property of 640 acres; and

(b) one additional general landowner buck deer permit may be issued for ~~[eligible property for]~~ each additional 640 acres of eligible property.

(c) If an individual has both owned and leased eligible property, the acreage may be combined in determining the number of permits to be issued.

~~(2)(2)~~ General permits issued to landowners shall be included in the total hunt area allocation.

~~—(3)—~~ Permittees may select only one general landowner buck deer permit (archery, rifle or muzzleloader) as provided in the proclamation of the Wildlife Board for taking big game.

~~[(4)](3)(a)~~ General landowner buck deer permits are for [landowner] personal use only and may not be transferred to any other person.

(b) If the landowner or lessee is a corporation, the person eligible for the permit must be a shareholder, or immediate family member of a shareholder, designated by the corporation.

~~(4)(5)~~ Any person who is issued a general landowner [permit must follow] buck deer permit under this rule is subject to all season dates, weapon restrictions and any other regulations as provided in the proclamation of the Wildlife Board for taking big game.

~~[(6) A general landowner permit holder may take only one buck deer within the respective general regional hunt boundary area during any one year.~~

~~—(7) A general landowner permit authorizes the permittee to hunt within the respective general regional hunt boundary area; where the eligible property is located.~~

~~—(8)(5)~~ The fee for a general landowner buck deer permit is the same as the fee for a general season, general archery or general muzzleloader buck deer permit.

(6) Nothing in this rule shall be construed to allow any person to obtain more than one general buck deer permit from any source or take more than one buck deer during any one year.

(7) Permits will be issued beginning in June, in the order that applications are received, and permits will continue to be issued until all permits for each region have been issued.

R657-43-8. Limited Entry Permits and Season Dates.

(1) Only bull elk, buck deer or buck pronghorn limited entry permits may be applied for by the landowner association.

(2)(a) The Division ~~[regional biologist]~~ and landowner chairperson shall jointly recommend the number of permits to be issued to the landowner association.

(b) When consensus between the landowner chairperson and the ~~[regional biologist]~~ Division is not reached, applications shall include justification for permit numbers for review by the Wildlife Regional Advisory Councils and the Wildlife Board.

(3) Permit numbers shall fall within the herd unit management guidelines. Permit numbers will be based on:

(a) the percent of private land big game habitat within the unit that is used by wildlife; or

(b) the percentage of use by wildlife on the private lands.

(4) Landowners receiving vouchers may personally use the vouchers or reassign the vouchers to any legal hunter.

(5) All landowners who receive vouchers, and transfer the vouchers to other hunters must:

(a) allow those hunters receiving the vouchers access to their private lands for hunting; and

(b) allow the same number of public hunters with valid permits, equal to the number of vouchers transferred, to access the landowner association's private land for hunting during the appropriate limited entry bull elk, buck deer or buck pronghorn hunting season, except as provided in Subsection (6).

(6)(a) Landowners who transfer vouchers to other hunters may deny public hunters access to the landowner association's private land for hunting by requesting, through the landowner association, a variance to Subsection (5)(b) from the Wildlife Board.

(b) The requested variance must be provided by the landowner association in writing to the division 30 days prior to the appropriate Regional Advisory Council meeting scheduled to review Rule R657-5 and the Bucks, Bulls and Once-in-a-lifetime proclamation of the Wildlife Board for taking big game.

(c) The [~~written and oral~~]variance request must be presented by the landowner association to the appropriate local Regional Wildlife Advisory Council. The local Regional Wildlife Advisory Council shall forward a recommendation to the Wildlife Board for consideration and action.

(7) Any person who is issued a limited entry landowner permit must follow the season dates, weapon restrictions and any other regulations governing the taking of big game as specified in Rule R657-5 and the proclamation of the Wildlife Board for taking big game.

(8) A limited entry landowner permit authorizes the permittee to hunt within the limited entry unit where the eligible property is located.

(9) Nothing in this rule shall be construed to allow any person, including a landowner, to take more than one buck deer, one bull elk or one buck pronghorn during any one year.

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KEY: wildlife, landowner permits*, big game seasons*
[~~January 15, 1999~~2001 **23-14-18**
23-14-19



Natural Resources, Wildlife Resources **R657-44** Big Game Depredation

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23676
FILED: 04/16/2001, 17:55
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to clarify that the division director must approve any vouchers issued for antlered animals.

SUMMARY OF THE RULE OR CHANGE: This amendment clarifies Subsections R657-44-3(7) and R657-44-3(8), and Subsections R657-44-4(5) and R657-44-3(6), providing that

the division director must approve any vouchers issued for antlered animals.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-16-2, 23-16-3, 23-16-3.5, and 23-16-4

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: These amendments are for clarification only. Therefore, the Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the state budget or the DWR's budget.

❖LOCAL GOVERNMENTS: None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖OTHER PERSONS: These amendments are for clarification only. Therefore, the amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These amendments are for clarification. The DWR determines that there are no additional compliance costs associated with these amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Natural Resources
Wildlife Resources
Suite 2110
1594 West North Temple
PO Box 146301
Salt Lake City, UT 84114-6301, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdwr.dsundell@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: John Kimball, Director

R657. Natural Resources, Wildlife Resources.
R657-44. Big Game Depredation.

.....

R657-44-3. Damage to Cultivated Crops.

(1) The owner of cultivated crops from or upon cleared and planted land shall immediately, upon discovery of big game

damage, notify the appropriate regional supervisor or division representative.

(2) Notification must be made:

(a) orally to expedite field investigations to one of the regional division offices or division representative; and

(b) in writing to one of the regional division offices or a division representative.

(3) The regional supervisor or division representative shall contact the crop owner within 72 hours of notification to determine the nature of the damage and take appropriate action for the extent of the damage experienced or expected.

(4) The damage incident period shall be determined and agreed upon by the division representative and the crop owner.

(5) Division action may include any of the following:

(a) sending a Division representative onto the premises to control or remove the big game animals, including:

(i) herding;

(ii) capture and relocation;

(iii) temporary fencing; or

(iv) removal, as authorized by the division director or the division director's designee;

(b) recommending to the Wildlife Board an antlerless big game hunt in the next big game season framework;

(c) scheduling a depredation hunter pool hunt as authorized by the Wildlife Board;

(d) issuing big game mitigation permit vouchers to the landowner, allowing the landowner to designate who shall receive the big game mitigation permits to be used for hunting on the owner's or lessee's land during a general or special hunt authorized by the Wildlife Board;

(e) issue big game mitigation permit vouchers to a landowner association that has applied to the division providing a map of the association lands, the signatures of the landowners in the association and designated an association representative to act as liaison with the division, allowing the landowner association to designate who shall receive the big game mitigation permits to be used for hunting on the association's land during a general season or special season as authorized by the Wildlife Board; or

(f) issuing permits to the landowner or lessee for the harvest of big game animals causing depredation. No more than five deer or pronghorn and two elk may be retained by the landowner or lessee.

(6) A landowner or lessee who elects to pursue mitigation through measures in subsections (5) (d) through (5)(f) may not subsequently file a claim under Section 23-16-4, except as provided by an agreement made under Section 23-16-3.5(3)(b)(i).

(7) The options in subsections [~~(5)(c) through (5)(e)~~](5)(b) and (5)(f) are for antlerless animals only. Deer and pronghorn hunts may be August 1 through December 31 and elk hunts may be August 1 through January 31.

(8) The division director must approve any permits or vouchers issued for antlered animals.

(9)(a) The owner of cultivated crops from or upon cleared and planted land is authorized to kill big game animals doing damage to his crops after allowing the division a minimum of 72 hours to remove the offending animals or provide mitigation options after again notifying the division, after the initial 72 hour period, of the necessity of having to remove the animals himself to protect his crops.

(b) Notification must be made:

(i) orally to the appropriate regional division office or division representative; and

(ii) followed in writing to the appropriate regional division office or division representative.

(c) Immediately after making the kill, the crop owner shall notify the appropriate division representative. The carcass of any big game animal killed pursuant to Subsection (8)(a) shall become the property of the division and shall be disposed of by it.

(d) The authority of the owner of cultivated crops from or upon cleared and planted land to remove big game animals continues until the appropriate regional supervisor or division representative and crop owner agree that the damage incident is concluded.

(e) Killing big game animals after the damage incident period has expired is a violation of the Wildlife Code.

(f) The expiration of the damage incident period does not preclude the crop owner from making future claims.

R657-44-4. Damage to Livestock Forage, Fences, or Irrigation Equipment on Private Lands.

(1) If big game animals are damaging livestock forage, fences, or irrigation equipment on private land or are consuming livestock forage on private land, the landowner or lessee may request the division to take action to prevent depredation.

(2) The request shall be made:

(a) orally to one of the regional division offices or division representative to expedite field investigations; and

(b) in writing to one of the regional division offices or division representative.

(3) The appropriate division representative shall investigate the situation within a reasonable time, not to exceed 72 hours, after receiving the request.

(4) If it appears that depredation by big game will continue, the division may, after consulting with the landowner or lessee, utilize one or any of the following options to address the depredation:

(a) send a Division representative onto the premises to control or remove the big game animals, including:

(i) herding;

(ii) capture and relocation;

(iii) temporary fencing; or

(iv) removal, as authorized by the division director or the division director's designee;

(b) recommend an antlerless big game hunt to the Wildlife Board in the next big game season framework;

(c) schedule a depredation hunter pool hunt, as authorized by the Wildlife Board;

(d) issue big game mitigation permit vouchers to the landowner, allowing the landowner to designate who shall receive the big game mitigation permits to be used for hunting on the owner's or lessee's land during a general season or special hunt as authorized by the Wildlife Board;

(e) issue big game mitigation permit vouchers to a landowner association that has applied to the division providing a map of the association lands, the signatures of the landowners in the association and designated an association representative to act as liaison with the division, allowing the landowner association to designate who shall receive the big game mitigation permits to be

used for hunting on the association's land during a general season or special season as authorized by the Wildlife Board; or

(f) issue permits to the landowner or lessee for the harvest of big game animals causing depredation. No more than five deer or pronghorn, and two elk may be retained by the landowner or lessee.

(5) ~~[The options in Subsections (4)(b) through (4)(f) are for antlerless animals only.]~~Deer and pronghorn hunts may be August 1 through December 31 and elk hunts may be August 1 through January 31. Antlerless permits shall not exceed ten percent of the animals on the private land. A maximum of twenty permits per landowner is allowed.

(6) The division director must approve any permits or vouchers issued for antlered animals.

(7)(a) The Division may enter into a conservation lease with the owner or lessee of private land for a fee, or other remuneration, as compensation for big game depredation.

(b) Any conservation lease entered into under this rule shall provide that the claimant may not unreasonably restrict hunting on the land, or passage through the land to access public land for the purpose of hunting, if those actions are necessary to control or mitigate damage by big game.

(8) In determining appropriate mitigation, the division shall consider:

(a) the extent of damage experienced or expected;

(b) any revenue the landowner derives from participation in a cooperative wildlife management unit, use of landowner permits, and charging for hunter access; and

(c) the population management objective as established in management plans approved by the Wildlife Board.

(9) The damage incident period shall be determined and agreed upon by the division representative and the landowner or lessee.

(10) A landowner or lessee who elects to pursue mitigation through the measures in Subsections (4)(d) through (4)(e) may not subsequently file a claim under Section 23-16-4, except as provided by an agreement made under Section 23-16-3.5(3)(b)(i).

.....

KEY: wildlife, big game*, depredation*
~~[October 16, 1998]~~2001

23-16-2
23-16-3
23-16-3.5
23-16-4



Natural Resources, Wildlife Resources
R657-48
Implementation of the Wildlife Species
of Concern and Habitat Designation
Advisory Committee

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 23677

FILED: 04/16/2001, 17:55

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being proposed to establish the Wildlife Species of Concern and Habitat Designation Advisory Committee, and define the procedures for the designation of wildlife species of concern, wildlife habitat, and management recommendations relating to land use.

SUMMARY OF THE RULE OR CHANGE: This rule provides the procedures for the designation of sensitive species within the state and the designation of wildlife habitat and management recommendations relating to significant land use development projects. Provisions of this rule will provide procedures whereby the established committee will hear evidence relating to the designation of wildlife species' of concern. This evidence includes an analysis of potential impacts of the proposed designations and the existing social and economic needs of the affected communities' interests. In addition, biological, social, and economic impacts will be considered in making habitat designations and management recommendations. The designation of a species, as a species of concern will require Wildlife Board approval.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-19 and Subsection 63-34-5(2)(a)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This rule provides the procedures for the designation of sensitive species within the state and the designation of wildlife habitat and management recommendations relating to significant land use development projects. Costs include the collection and evaluation of biological data associated with distribution, numbers, habitat use, habitat risks and an evaluation of these data on the status of the species or the impacts associated with the proposed action. Costs include the collection and evaluation of data associated with the impacts of designating a sensitive species or the proposed action on man, his economic activities, private property rights and local economies. A public hearing may be required at the Department of Natural Resources and/or Regional Advisory Councils and Wildlife Board levels. The intent in designating state sensitive species is to preclude federal listing under the Threatened and Endangered Species Act (ESA) and the costs associated with designated species. Currently, 26 listed species cost the state an estimated \$5,000,000 annually in mitigation expense, plus significant costs to local governments and landowners associated with listed species habitat issues. The intent in designating mitigation associated with proposed actions is to meet federal requirements in the National Environmental Policy Act (NEPA) process.

❖LOCAL GOVERNMENTS: This filing does not create any direct cost or saving impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments. However, one of the principle purposes behind this rule is to direct conservation measures to prevent species from being listed under the ESA. Species that are listed under the ESA result in significant economic cost impacts to local governments.

❖OTHER PERSONS: This rule does not directly create a cost or saving impact to other persons. However, one of the principle purposes behind this rule is to direct conservation measures to prevent species from being listed under the ESA. Species that are listed under the ESA result in significant economic costs and habitat restrictions to other persons. Other persons may incur costs associated with conservation measures for sensitive species, however, these costs would be considerably less than those accompanying a federally-listed species.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons may incur costs associated with conservation measures for sensitive species, however, these costs would be considerably less than those accompanying a federally-listed species.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses may incur costs associated with conservation measures for sensitive species, however, these costs would be considerably less than those accompanying a federally listed species.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Natural Resources
Wildlife Resources
Suite 2110
1594 West North Temple
PO Box 146301
Salt Lake City, UT 84114-6301, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdrw.dsundell@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: John Kimball, Director

R657-48. Natural Resources, Wildlife Resources.

R657-48. Implementation of the Wildlife Species of Concern and Habitat Designation Advisory Committee.

R657-48-1. Authority and Purpose.

(1) Pursuant to Sections 23-14-19 and 63-34-5(2)(a) of the Utah Code, this rule:

(a) establishes the Wildlife Species of Concern and Habitat Designation Advisory Committee;

(b) defines its purpose and relationship to local, state and federal governments, the public, business, and industry functions of the state; and

(c) defines the procedure for:

(i) the designation of wildlife species of concern as part of a process to preclude listing under the ESA; and

(ii) review, identification and analysis of wildlife habitat designation and management recommendations relating to significant land use development projects.

R657-48-2. Definitions.

(1) The terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Committee" means the Wildlife Species of Concern and Habitat Designation Advisory Committee.

(b) "Conservation species" means wildlife species or subspecies that have been identified as a species of concern and that are currently receiving special management under a conservation agreement developed or implemented by the state to preclude the need for listing under the ESA.

(c) "Department" means the Department of Natural Resources.

(d) "Division" means the Division of Wildlife Resources within the Department.

(e) "ESA" means the federal Endangered Species Act.

(f) "Executive Director" means Executive Director of the Department.

(g) "Habitat identification material" means maps, data, or documents prepared by the Division in the process of specifying wildlife habitat.

(h) "Management recommendations" means determinations of, amount of, level of intensity, timing of, any restrictions, conditions, mitigation, or allowances for activities proposed for a project area pursuant to this rule.

(i) "NEPA" means the National Environmental Policy Act as defined in 42 U.S.C. Section 4321-4347.

(j) "Interested Person" means an individual, firm, association, corporation, limited liability company, partnership, commercial or trade entity, any agency of the United States Government, the State of Utah, its departments, agencies and political subdivisions.

(k) "Project area" means the geographical area covered by a significant land use development.

(l) "Proposed wildlife habitat designation" means identified habitat in a project area undergoing review pursuant to this rule.

(m) "RDCC" means the Resource Development Coordinating Committee as provided in Section 63-28a-1.

(n) "Significant land use development" means an RDCC review item identified as such by the State Planning Coordinator, any projects or developments identified by the Executive Director, or as approved through petition as described in Section R657-48-5.

(o) "Wildlife habitat designation document" means the decision of the RDCC after following the provisions of this rule for wildlife habitat designation and management recommendations for a project area.

(p) "State sensitive species" means:

(i) species listed under the ESA now or previously present in Utah;

(ii) candidate species under the ESA now or previously present in Utah;

(iii) a state conservation species; or

(iv) a state wildlife species of concern.

(q) "Wildlife habitat designation" means the wildlife habitat identification within a project area issued pursuant to this rule.

(r) "Wildlife habitat identification" means the description, classification and assignment by the Division of any area of land or bodies of water as the habitat, range or area of use, seasonally, historically, currently, or prospectively of or by any species of game or non-game wildlife in the State of Utah.

(s) "Wildlife species of concern" means a wildlife group within the state of Utah for which there is credible scientific evidence to substantiate a threat to continued population viability.

R657-48-3. Department Responsibilities.

(1) There is established a Wildlife Species of Concern and Habitat Designation Advisory Committee within the Department of Natural Resources.

(2) The Department shall provide staff support, arrange meetings, keep minutes, and prepare and distribute final recommendations.

R657-48-4. Committee Membership and Procedure.

(1) Committee membership shall consist of:

(a) the Executive Director of the Department;

(b) the Director of the Division or a designee;

(c) the Director of the Division of Oil, Gas and Mining or a designee;

(d) the Director of the Division of Water Resources or a designee; and

(e) any other Department Division heads or designees as determined by the Executive Director of the Department.

(2) The Executive Director shall serve as chair.

(3) Three members, consisting of the Executive Director, the Director of the Division of Wildlife Resources and the Director of the Division of Oil, Gas and Mining, shall constitute a quorum for meetings of the Committee.

(4) The Committee shall meet as specified by the Executive Director.

(5) The following procedure shall be used for submitting review items to the Executive Director for inclusion on the Committee agenda:

(a) the Division Director shall submit for committee review all proposed designations or re-designations of each wildlife species of concern; and

(b) the Division Director shall submit for committee review any proposed or existing wildlife habitat designation and corresponding management recommendations within a project area.

(i) The Division shall support its proposals for wildlife species of concern designations, wildlife habitat designation and management recommendations with:

(A) studies, investigations and research supporting the need for the designation and the potential impacts of each proposal;

(B) field survey and observation data; and

(C) federal, state, local and academic information on habitat, historical distribution, and other data or information collected in accordance with generally accepted scientific techniques and practices.

(6) Species at the edge of their range or with limited distribution may be included for evaluation.

(7) The Department will provide an analysis of potential impacts of the proposed designations and the existing social and economic needs of the affected communities and interests.

R657-48-5. Public Participation and Setting of Meeting Agenda.

(1) An interested person may petition the Executive Director for a hearing before the Committee to designate a project as a significant land use development for purposes of this rule.

(2) The Executive Director shall act to approve or disapprove a petition or extension request within 14 days.

(3)(a) The agenda shall consist of items determined by the Executive Director, and copies shall be sent to Committee members and other interested persons as requested.

(b) Requests to receive notices and agendas must be submitted in writing to the Executive Director's Office as provided in Subsection R657-48-9(1).

(4) Any interested person may:

(a) submit comments on proposed species of concern and wildlife habitat designations;

(i) submissions must be submitted in writing to the Executive Director for review and must be submitted at least seven days prior to the meeting;

(b) request an extension of up to 30 days to review a proposed Committee action; or

(c) request to make an oral presentation before the Committee.

(i) An interested person seeking to make a presentation before the Committee concerning any matter under review, must submit a written request and supporting documentation to the Executive Director at least 14 days prior to the meeting.

R657-48-6. Committee Review Actions.

(1) In conducting a review of issues, the Committee may:

(a) require additional information from the Division, the Department or interested persons;

(b) require the Division or interested persons to make presentations before the Committee or provide additional documentation in support or opposition of the recommendation;

(c) schedule additional meetings where public interest or agency concern merits additional discussion;

(d) undertake additional review functions as needed; or

(e) consider the need for involvement of other persons or agencies, or whether other action may be needed.

(2) Following the Committee's review and recommendation, the Executive Director shall:

(a) make a final determination and recommend the approval of proposed wildlife species of concern designations to the Wildlife Board; or

(b) in the case of proposed wildlife habitat designation, recommend wildlife habitat designations and proposed management recommendations to the RDCC.

(3) The Executive Director's decision will be announced at that meeting, or the next formal meeting, on the proposed species of concern or habitat designation, unless an alternative time is required by federal or state law, or rule.

R657-48-7. Wildlife Species of Concern Designation Process.

(1) A wildlife species of concern designation shall be made only after the Executive Director, following consideration of the Committee's recommendations, has made a formal written recommendation to the Wildlife Board, and after that Board has considered:

(a) the Executive Director's recommendation, and all comments on such recommendation; and

(b) all data, testimony and other documentation presented to the Committee and the Wildlife Board pertaining to such proposed designation.

(2) All wildlife species of concern designations shall be made:

(a) pursuant to the procedures specified in this rule; and

(b) as an independent public rulemaking pursuant to the Administrative Rulemaking Act, Title 63, Chapter 46(a) of the Utah Code.

(3) With the proposed rule and any amendments for a wildlife species of concern, the accompanying analysis shall include either a species status or habitat assessment statement, a statement of the habitat needs and threats for the species, the anticipated costs and savings to land owners, businesses, and affected counties, and the inclusion of the rationale for the proposed designation.

(4) The Wildlife Board may approve, deny or remand the proposed wildlife species of concern designation to the Executive Director.

(5) Until a rule designating a wildlife species of concern is finalized, the proposed rule may not be used or relied upon by any governmental agency, interested person, or entity as an official or unofficial statement of the state of Utah.

(6) The Division shall maintain all data collected and other information relied upon in developing proposed species of concern designations as part of the administrative record and make such information available, subject to the Government Records Access and Management Act as defined in Section 62-2-101, for public review and copying upon request.

R657-48-8. Wildlife Habitat Designations and Management Recommendations.

(1) Wildlife habitat designations and management recommendations for project areas will be made pursuant to the procedures specified by this rule.

(2) Any Department or Division map, identification of habitat, document or other material that is provided or released to, or used by any persons, including federal agencies, which includes wildlife habitat designations that have been adopted under this rule will so indicate.

(3) A proposed wildlife habitat designation and management recommendation shall be adopted by RDCC only after the Executive Director, following consideration of the Committee's recommendations, has made a formal written recommendation to RDCC and the RDCC has considered:

(a) the Executive Director's recommendation and all comments on such recommendation; and

(b) all data, testimony and other documentation presented to the Committee pertaining to such proposed designation.

(4) RDCC shall act on the proposal pursuant to its rules.

(5) If rejected or remanded for modification to the Executive Director by RDCC, the Executive Director may make the recommended modifications, conduct a further review of the proposed wildlife habitat designation, or withdraw the proposed wildlife habitat designation from further consideration.

(6) Until a final determination on a proposed wildlife habitat and management recommendation has been made by the Executive Director and adopted by RDCC, the proposed wildlife habitat or management recommendations may not be used or relied upon by any other governmental agency, interested person, or entity as an official or unofficial statement of the state of Utah.

(7) A Wildlife Habitat Designation document developed for the purpose of this rule, having completed the RDCC process, shall be attached to the wildlife habitat identification materials and made available for public review or copying upon request.

(8) The Division shall maintain all data collected and other information relied upon in developing proposed wildlife habitat designations and management recommendations as part of the administrative record, and make this information available in accordance with the Government Records Access and Management Act as defined in Section 62-2-101, for public review and copying upon request.

R657-48-9. Distribution.

(1) The Division shall send by mail or electronic means a copy of a proposed species of concern designation or wildlife habitat and management determination established under this rule to the following:

(a) any person who has requested in writing that the division provide notice of any proposed species of concern designations or proposed wildlife habitat and management recommendations under this rule; and

(b) county commissions and tribal governments, which have jurisdiction over lands that are covered by a proposed wildlife habitat designation and management recommendation and of lands inhabited by a species proposed to be designated as a species of concern under this rule.

(2) Species of concern designations, wildlife habitat designations or management recommendations may not be used by governmental entities as a basis to involuntarily restrict the private property rights of landowners and their lessees or permittees.

**KEY: species of concern*, habitat designation*
2001**

**23-14-19
63-34-5(2)(a)**



Transportation, Preconstruction, Right-of-Way Acquisition
R933-2-15
Special Permits for Olympic Pageants

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23622
FILED: 04/10/2001, 18:19
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To allow governmental entities to obtain permits lasting longer than a week for Olympic-related pageantry.

SUMMARY OF THE RULE OR CHANGE: This rule amendment allows Olympic-related pageantry, when placed by governmental entities or political subdivisions, to be put up for longer than one week at a time.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-7-102 and 72-7-103

ANTICIPATED COST OR SAVINGS TO:

- THE STATE BUDGET: As of now, it is known if there will be any applicants for permits. Therefore it is not known how much it will cost to process them.
LOCAL GOVERNMENTS: Utah Department of Transportation (UDOT) does not charge local governments for permits; therefore, there will be no costs to them.
OTHER PERSONS: Other persons are not eligible for the permits described in the amendment; consequently, no costs will be incurred.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Any compliance costs will be indirect, resulting solely from time the governmental entity spends preparing an application for a permit. Those costs also will only be borne if the governmental entity chooses to apply for a permit.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No comments appear necessary since there is no fiscal impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Transportation
Preconstruction, Right-of-Way Acquisition
Calvin Rampton Complex
4501 South 2700 West
PO Box 141265
Salt Lake City, UT 84114-1265, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
James H. Beadles at the above address, by phone at (801) 965-4168, by FAX at (801) 965-4796, or by Internet E-mail at jbeadles@dot.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: James H. Beadles, Legal Counsel

R933. Transportation, Preconstruction, Right[-]-of[-]-Way Acquisition.

R933-2. Control of Outdoor Advertising Signs.

R933-2-15. Special Permits for Olympic Pageants.

Notwithstanding rules in R930-6 regarding the one-week validity of special advertising permits, UDOT may allow political subdivisions and governmental entities to place Olympic pageantry along the right-of-way for more than one week. Unless an Olympic-pageantry permit specifically provides for an earlier expiration date, it expires automatically on April 2, 2002. All pageantry must be removed by the expiration date and the right-of-way must be returned to its previous condition. Other rules regarding right-of-way encroachments and the granting of permits apply. Additionally, nothing in this rule limits UDOT's discretion to grant a permit for Olympic pageantry, or attach conditions to such a grant. No application for an Olympic-pageantry permit will be accepted after April 2, 2002.

KEY: signs

[1994]2001

27-12-136.1 through 27-12-136.13

Notice of Continuation February 10, 1997

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [example]). A row of dots in the text (•••••) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends May 31, 2001. At its option, the agency may hold public hearings.

From the end of the waiting period through August 29, 2001, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (1996); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

Environmental Quality, Solid and Hazardous Waste

R315-3

Application and Permit Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 23411
FILED: 04/13/2001, 10:11
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is proposed rule corrects some errors that were in the original proposed rule changes.

SUMMARY OF THE RULE OR CHANGE: This change in proposed rule corrects some typographical errors that left out the part number of the 40 CFR reference and clarifies which sections of the CFR are being incorporated by referenced.

(DAR Note: This change in proposed rule has been filed to make additional changes to an amendment that was published in the February 1, 2001, issue of the Utah State Bulletin, on page 30. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-106
FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 271.21(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 270, subpart H, 2000 ed.

ANTICIPATED COST OR SAVINGS TO:
THE STATE BUDGET: Since the changes in the rule do not affect State entities and the enforcement of the rule will not change, there will be no cost or saving impact.

LOCAL GOVERNMENTS: Since the changes in the rule do not affect local governments and the enforcement of the rule will not change, there will be no cost or saving impact.

OTHER PERSONS: The compliance costs for affected persons will not change since the rule change only makes typographical and clarification changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs for affected persons will not change since the rule change only makes typographical and clarification changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes in this rule will have no fiscal impact on businesses. Dianne R. Nielson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at storonto@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2001

AUTHORIZED BY: Dennis R. Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.
R315-3. Application and Permit Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities.
R315-3-2. Permit Application.

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2.2 SIGNATORIES TO PERMIT APPLICATIONS AND REPORTS

(a) Applications. All permit applications shall be signed as follows:

(1) For a corporation: by a principal executive officer of at least the level of vice-president;

(2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

(3) For a municipality, State, Federal, or other public agency; by either a principal executive officer or ranking elected official.

(b) Reports. All reports required by permits and other information requested by the Executive Secretary shall be signed by a person described in R315-3-2.2(a), or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in R315-3-2.2(a);

(2) The authorization specified either an individual or a position having responsibility for overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

(3) The written authorization is submitted to the Executive Secretary.

(c) Changes to authorization. If an authorization under R315-3-2.2(b) is no longer accurate because different individual or position has responsibility for the overall operation of the facility,

a new authorization satisfying the requirements of R315-3-2.2(b) shall be submitted to the Executive Secretary prior to or together with any reports, information, or applications to be signed by an authorized representative.

(d)(1) Certification. Any person signing a document under R315-3-2.2(a) or (b) shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(2) For remedial action plans (RAPs) under R315-3-8, which incorporates by reference 40 CFR 270, subpart H, if the operator certifies according to R315-3-2.2(d)(1), then the owner may choose to make the following certification instead of the certification in R315-3-2.2(d)(1):

"Based on my knowledge of the conditions of the property described in the RAP and my inquiry of the person or persons who manage the system referenced in the operator's certification, or those persons directly responsible for gathering the information, the information submitted is, upon information and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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6.7 REMEDIAL ACTION PLANS

Remedial Action Plans (RAPs) are special forms of permits that are regulated under R315-3-8, which incorporates by reference 40 CFR 270, subpart H.

R315-3-7. Interim Status.

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7.4 TERMINATION OF INTERIM STATUS

Interim status terminates when:

(a) Final administrative disposition of a permit application, except an application for a remedial action plan (RAP) under R315-3-8, which incorporates by reference 40 CFR 270, subpart H, is made.

(b) Interim status is terminated as provided in R315-3-2.1(d)(5).

(c) For owners or operators of each land disposal facility which has been granted interim status prior to November 8, 1984, on November 8, 1985, unless:

(1) The owner or operator submits a part B application for a permit for a facility prior to that date; and

(2) The owner or operator certifies that the facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements.

(d) For owners or operators of each land disposal facility which is in existence on the effective date of statutory or regulatory amendments under the Federal Act that render the facility subject to the requirement to have a RCRA permit and which is granted interim status, twelve months after the date on which the facility first becomes subject to the permit requirement unless the owner or operator of the facility:

(1) Submits a part B application for a permit for the facility before the date 12 months after the date on which the facility first becomes subject to the permit requirement; and

(2) Certifies that the facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements.

(e) For owners or operators of any land disposal unit that is granted authority to operate under R315-3-7.3(a)(1), (2) or (3), on the date 12 months after the effective date of the requirement, unless the owner or operator certifies that this unit is in compliance with all applicable groundwater monitoring and financial responsibility requirements.

(f) For owners or operators of each incinerator facility which has achieved interim status prior to November 8, 1984, interim status terminates on November 8, 1989, unless the owner or operator of the facility submits a part B application for a permit for an incinerator facility by November 8, 1986.

(g) For owners or operators of any facility, other than a land disposal or an incinerator facility, which has achieved interim status prior to November 8, 1984, interim status terminates on November 8, 1992, unless the owner or operator of the facility submits a part B application for a hazardous waste permit for the facility by November 8, 1988.

R315-3-8. Remedial Action Plans (RAPs).

The requirements of 40 CFR 270, subpart H, which includes sections 270.79 through 270.230, 2000 ed., are adopted and incorporated by reference with the following exception:

substitute "Executive Secretary" for all Federal regulation references made to "Director."

KEY: hazardous waste

2001

19-6-105

Notice of Continuation March 12, 1997

19-6-106



Environmental Quality, Solid and Hazardous Waste

R315-7

Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 23413

FILED: 04/13/2001, 10:11

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change in proposed rule adds a sentence that was omitted in the original proposed rule change.

SUMMARY OF THE RULE OR CHANGE: This change in proposed rule adds a sentence requiring hazardous waste facilities with surface impoundments to keep certifications at the facility.

(DAR Note: This change in proposed rule has been filed to make additional changes to an amendment that was published in the February 1, 2001, issue of the *Utah State Bulletin*, on page 31. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-106

FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 271.21(e)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Since the changes in the rule do not affect State entities and the enforcement of the rule will not change, there will be no cost or saving impact.

❖LOCAL GOVERNMENTS: Since the changes in the rule do not affect local governments and the enforcement of the rule will not change, there will be no cost or saving impact.

❖OTHER PERSONS: The compliance costs for affected persons will not change since the rule change only makes operators of hazardous waste facilities maintain certifications at the facility.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs for affected persons will not change since the rule change only makes operators of hazardous waste facilities maintain certifications at the facility.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes in this rule will have no fiscal impact on businesses. Dianne R. Nielson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at storonto@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2001

AUTHORIZED BY: Dennis R. Downs, Director

**R315. Environmental Quality, Solid and Hazardous Waste.
R315-7. Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities.
R315-7-8. General Interim Status Requirements.**

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18.7 SPECIAL REQUIREMENTS FOR IGNITABLE OR REACTIVE WASTE

Ignitable or reactive waste shall not be placed in a surface impoundment, unless the waste and impoundment satisfy all applicable requirements of R315-13, which incorporates by reference 40 CFR 268, and:

(a) The waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that:

(1) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under R315-2-9(d) and (f); and

(2) R315-7-9.8(b) is complied with; or

(b)(1) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; and

(2) Maintain and monitor the leak detection system in accordance with R315-8-11.2(c)(2)(iv) and (3) and R315-7-18.5(b) and comply with all other applicable leak detection system requirements of R315-7;

(3) The owner or operator obtains a certification from a qualified chemist or engineer that, to the best of his knowledge and opinion, the design features or operating plans of the facility will prevent ignition or reaction; and

(4) The certification and the basis for it are maintained at the facility; or

(c) The surface impoundment is used solely for emergencies.

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KEY: hazardous waste

2001

Notice of Continuation March 12, 1997

19-6-105

19-6-106



Environmental Quality, Solid and
Hazardous Waste
R315-8
Standards for Owners and Operators of
Hazardous Waste Treatment, Storage,
and Disposal Facilities

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 23414
FILED: 04/13/2001, 10:11
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change in proposed rule corrects some errors that were in the original proposed rule changes.

SUMMARY OF THE RULE OR CHANGE: This change in proposed rule corrects some typographical errors that left out the part number of the 40 CFR reference and clarifies which sections of the CFR are being incorporated by reference.

(DAR Note: This change in proposed rule has been filed to make additional changes to an amendment that was published in the February 1, 2001, issue of the *Utah State Bulletin*, on page 36. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-106
FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 271.21(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 264, subparts S and X, 2000 ed.

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Since the changes in the rule do not affect State entities and the enforcement of the rule will not change, there will be no cost or savings impact.

❖LOCAL GOVERNMENTS: Since the changes in the rule do not affect local governments and the enforcement of the rule will not change, there will be no cost or savings impact.

❖OTHER PERSONS: The compliance costs for affected persons will not change since the rule change only makes typographical and clarification changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs for affected persons will not change since the rule change only makes typographical and clarification changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes

in this rule will have no fiscal impact on businesses. Dianne R. Nielson, Ph.D.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at storonto@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 06/15/2001

AUTHORIZED BY: Dennis R. Downs, Director

**R315. Environmental Quality, Solid and Hazardous Waste.
R315-8. Standards for Owners and Operators of Hazardous
Waste Treatment, Storage, and Disposal Facilities.
R315-8-1. Purpose, Scope and Applicability.**

(a) The purpose of R315-8 is to establish minimum State of Utah standards which define the acceptable management of hazardous waste.

(b) The standards in R315-8 apply to owners and operators of all facilities which treat, store, or dispose of hazardous waste, except as specifically provided otherwise in R315-8 or R315-2.

(c) The requirements of R315-8 apply to a person disposing of hazardous waste by means of underground injection subject to a permit issued under the Underground Injection Control (UIC) program approved or promulgated under the Safe Drinking Water Act only to the extent they are required by R315-3. R315-8 applies to the above-ground treatment or storage of hazardous waste before it is injected underground.

(d) The requirements of R315-8 apply to the owner or operator of a POTW which treats, stores, or disposes of hazardous waste only to the extent they are included in a RCRA permit by rule granted to such a person under R315-3.

(e) The requirements of R315-8 do not apply to:

(1) The owner or operator of a state approved facility managing municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under R315-2-5, conditionally exempt small quantity generator exemption;

(2) A generator accumulating waste on-site in compliance with R315-5-3.34, which incorporates by reference 40 CFR 262.34;

(3) A farmer disposing of waste pesticides from his own use in compliance with R315-5-7;

(4) The owner or operator of a totally enclosed treatment facility. A totally enclosed treatment facility is a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment;

(5) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of R315-5-3.30 at a transfer facility for a period of ten days or less;

(6)(i) Except as provided in R315-8-1(e)(6)(ii), a person engaged in treatment or containment activities during immediate response to any of the following situations:

(A) A discharge of a hazardous waste;

(B) An imminent and substantial threat of a discharge of hazardous waste; and

(C) A discharge of a material which, when discharged, becomes a hazardous waste.

(ii) An owner or operator of a facility otherwise regulated by R315-8 shall comply with all applicable requirements of R315-8-3 and R315-8-4.

(iii) Any person who is covered by R315-8-1(e)(6)(i), and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of R315-8 and R315-3 for those activities.

(7) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in R315-1-1(b), which incorporates by reference 40 CFR 260.10, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes, other than the D001 High TOC Subcategory defined in R315-13, which incorporates by reference 40 CFR 268.40, or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator shall comply with the requirements set out in R315-8-2.8(b);

(8) The addition of absorbent material to waste in a container, as defined in R315-1, or the addition of waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and R315-8-2.8(b), R315-8-9.2, and R315-8-9.3 are complied with;

(9) The owner or operator of a facility managing recyclable materials described in R315-2-6, which incorporates by reference 40 CFR 261.6, except to the extent that they are referred to in R315-15 or R315-14-2, which incorporates by reference 40 CFR 266 subpart C, R315-14-5, which incorporates by reference 40 CFR 266 subpart F, and R315-14-6, which incorporates by reference 40 CFR 266 subpart G; and

(10) Universal waste handlers and universal waste transporters (as defined in R315-16-1.7), handling the wastes listed below. These handlers are subject to regulation under R315-16, when handling the below listed universal wastes:

(i) Batteries as described in R315-16-1.2;

(ii) Pesticides as described in R315-16-1.3;

(iii) Mercury thermostats as described in R315-16-1.4; and

(iv) Mercury lamps as described in R315-16-1.6.

(f) The requirements of this rule apply to owners or operators of all facilities which treat, store, or dispose of hazardous waste referred to in R315-13, which incorporates by reference 40 CFR 268.

(g) The requirements of R315-8-2 through 8-4 and R315-8-6.12 do not apply to remediation waste management sites. (However, some remediation waste management sites may be a part of a facility that is subject to a traditional hazardous waste ~~plan approval~~ permit because the facility is also treating, storing or disposing of hazardous wastes that are not remediation wastes. In these cases, R315-8-2 through 8-4 and R315-8-6.12 do apply to the facility subject to the traditional hazardous waste permit). Instead of the requirements of R315-8-2 through 8-4, owners or operators of remediation waste management sites must:

(1) Obtain an EPA identification number by applying to the Division of Solid and Hazardous Waste using EPA Form 8700-12;

(2) Obtain a detailed chemical and physical analysis of a representative sample of the hazardous remediation waste to be managed at the site. At a minimum, the analysis must contain all of the information which must be known to treat, store, or dispose of the waste according to ~~R315-8 and~~ R315-13, which incorporates by reference 40 CFR 268, and R315-8, and must be kept accurate and up to date;

(3) Prevent people who are unaware of the danger from entering, and minimize the possibility for unauthorized people or livestock to enter onto the active portion of the remediation waste management site, unless the owner or operator can demonstrate to the Executive Secretary that:

(i) Physical contact with the waste, structures, or equipment within the active portion of the remediation waste management site will not injure people or livestock who may enter the active portion of the remediation waste management site; and

(ii) Disturbance of the waste or equipment by people or livestock who enter onto the active portion of the remediation waste management site, will not cause a violation of the requirements of R315-8;

(4) Inspect the remediation waste management site for malfunctions, deterioration, operator errors, and discharges that may be causing, or may lead to, a release of hazardous waste constituents to the environment, or a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment, and must remedy the problem before it leads to a human health or environmental hazard. Where a hazard is imminent or has already occurred, the owner/operator must take remedial action immediately;

(5) Provide personnel with classroom or on-the-job training on how to perform their duties in a way that ensures the remediation waste management site complies with the requirements of R315-8, and on how to respond effectively to emergencies;

(6) Take precautions to prevent accidental ignition or reaction of ignitable or reactive waste, and prevent threats to human health and the environment from ignitable, reactive and incompatible waste;

(7) For remediation waste management sites subject to regulation under R315-8-9 through 8-15, and R315-8-16, which incorporates by reference 40 CFR 264.600 - 603, the owner/operator must design, construct, operate, and maintain a unit within a 100-year floodplain to prevent washout of any hazardous waste by a 100-year flood, unless the owner/operator can meet the demonstration of R315-8-2.9(b);

(8) Not place any non-containerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation, underground mine or cave;

(9) Develop and maintain a construction quality assurance program for all surface impoundments, waste piles and landfill units that are required to comply with R315-8-11.2(c) and (d), R315-8-12.2(c) and (d), and R315-8-14.2(c) and (d) at the remediation waste management site, according to the requirements of R315-8-2.10;

(10) Develop and maintain procedures to prevent accidents and a contingency and emergency plan to control accidents that occur. These procedures must address proper design, construction, maintenance, and operation of remediation waste management units at the site. The goal of the plan must be to minimize the possibility of, and the hazards from a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment. The plan must explain specifically how to treat, store, and dispose of the hazardous remediation waste in question, and must be implemented immediately whenever a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment;

(11) Designate at least one employee, either on the facility premises or on call (that is, available to respond to an emergency by reaching the facility quickly), to coordinate all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan;

(12) Develop, maintain and implement a plan to meet the requirements in R315-8-1.1(g)(2) through (g)(6) and R315-8-1.1(g)(9) through (g)(10); and

(13) Maintain records documenting compliance with R315-8-1.1(g)(1) through (g)(12).

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R315-8-16. Miscellaneous Units.

The requirements as found in 40 CFR 264, subpart X, which includes sections 264.600 through 264.603, 2000 ed., are adopted and incorporated by reference.

R315-8-21. Corrective Action for Solid Waste Management Units.

The requirements of 40 CFR 264, subpart S, which includes sections 264.552 through 264.554, 2000 ed., are adopted and incorporated by reference with the following exception:

substitute "Executive Secretary" for all federal regulation references made to "Regional Administrator."

KEY: hazardous waste

2001

Notice of Continuation March 12, 1997

19-6-105

19-6-106



Insurance, Administration

R590-175

Basic Health Care Plan Rule

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 23369

FILED: 04/04/2001, 16:35

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The additional change to this rule comes as a result of legislation that was not passed in the 2001 Legislature.

SUMMARY OF THE RULE OR CHANGE: The additional change to this rule is a result of federal and local legislation that was not passed. This legislation would have required insurers to cover implantable contraceptives. The rule gives insurers the right to exclude from their basic health care plans "implantable contraceptives." The current basic health care plan allows this exclusion.

(DAR Note: This change in proposed rule has been filed to make additional changes to an amendment that was published in the December 15, 2000, issue of the *Utah State Bulletin*, on page 36. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-22-613

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This change will not require an additional form or rate filing by the insurer, therefore, the department will receive no additional revenue nor will there be any additional expense or work required of the department.

❖LOCAL GOVERNMENTS: This rule will not affect local government. The rule is regulated by state government agency to which all fees are paid by its licensees.

❖OTHER PERSONS: This change will not require an additional form or rate filing by the insurer. Since this allows insurers to continue to exclude contraceptive implants from their basic health plan, as they are doing now, it will actually reduce the cost anticipated in the previous Notice of Proposed Rule or Change where they were not allowed to exclude it from their basic benefits. The savings will differ from company to company based on several variables.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This change will not require an additional form or rate filing by the insurer. Since this allows insurers to continue to exclude contraceptive implants from their basic health plan, as they are doing now, it will actually reduce the cost anticipated in the previous Notice of Proposed Rule or Change where they were not allowed to exclude it from their basic benefits. The

savings will differ from company to company based on several variables.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As with the last Proposed Rule or Change form, the change to this rule itself should have no impact on businesses because the rule only brings the basic health benefit plan in compliance with the law.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Insurance Administration 3110 State Office Building Salt Lake City, UT 84114, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or by Internet E-mail at idmain.jwhitby@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/31/2001; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 05/09/2001, 2:00 p.m., Room 1112, State Office Building, 450 North Main (behind the Capitol), Salt Lake City, UT 84114.

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2001

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration. R590-175. Basic Health Care Plan Rule.

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R590-175-3. General Requirements.

A. Each insurer who is required to offer a health care plan under the open enrollment provisions of Chapter 30 shall file with the department at least one health plan which is specified by the insurer as complying with the provisions of this rule and which must be offered for sale to anyone qualifying for open enrollment under Chapter 30.

B. The specified plan may offer additional services or provide a greater level of benefits than the Basic Health Care Plan. However, the specified plan must contain at least those benefits set forth in the Basic Health Care Plan.

C. The specified plan shall not be designed or marketed in a manner which may tend to discourage its purchase by anyone purchasing under the open enrollment provisions of Chapter 30.

D. A plan having actuarial equivalence may be considered, at the sole discretion of the commissioner.

E. Each insurer may use its own language to present covered services, limitations and exclusions; however, any plan offered in compliance with the open enrollment provisions of Chapter 30 must contain at least the benefits set forth in the Basic Health Care Plan as adopted by the commissioner. The specified plan is to be offered

as a package, in its entirety, and is mutually exclusive of and not comparable on a line by line basis to a carrier's other plans.

F. When the specified plan is offered by a preferred provider organization, PPO, the benefit levels shown in the Basic Health Care Plan are for contracting providers; benefit levels for non-contracting providers' services may be reduced in accordance with Section 31A-22-617.

G. Each insurer is to include its usual contracting provisions in its specified plan including submission of claims, coordination of benefits, eligibility and coverage termination, grievance procedures general terms and conditions, etc.

H. The form to follow for the Basic Health Care Plan is as follows:

TABLE BASIC HEALTH CARE PLAN

1. MAXIMUM BENEFIT. The maximum benefit per person for the entire period for which coverage is in effect shall not be less than \$1,000,000.

2. ANNUAL MAXIMUM BENEFIT. The maximum annual benefit per person shall not be less than \$250,000.

3. PREEXISTING CONDITION LIMITATION. Any preexisting condition limitation shall be in compliance with Utah Code 31A-30-107(5); the waiting period shall be 12 months with credit for prior coverage when applicable.

4. COST-SHARING. Cost-sharing shall be based on eligible expenses. The cost-sharing features of the plan shall be one of the following, at the option of the carrier:

(a)(i) Deductible. An annual deductible may not be greater than \$1,000 per person and only two deductibles per family unit. However, when the person has a medical savings account, the deductible amount may be greater than \$1,000.

(ii) Copayment. See paragraph 6 for copayment applicable to prescription drugs.

(iii) Coinsurance. For all covered services other than mental illness/substance abuse services, the person shall pay not more than 20% coinsurance to an annual maximum of \$3,000 per person, \$6,000 per family unit.

(b)(i) Deductible. An annual deductible may not be greater than \$1,000 per person and only two deductibles per family unit. However, when the person has a medical savings account, the deductible amount may be greater than \$1,000. Preventive services under a managed care plan; e.g., HMO, PPO, are not subject to the deductible.

(ii) Copayment. A copayment is not to exceed \$15 per visit for office, including preventive care, services. When a copayment is required, no coinsurance may be charged for the same service. See paragraph 6 for copayment applicable to prescription drugs.

(iii) Coinsurance. For all covered services other than mental illness/substance abuse services, the person shall pay not more than 20% coinsurance to an annual maximum of \$3,000 per person, \$6,000 per family unit.

(c)(i) Deductible. None.

(ii) Copayment. A copayment is not to exceed \$20 per visit for office, including preventive care, services. When a copayment is required, no coinsurance may be charged for the same service. See paragraph 6 for copayment applicable to prescription drugs.

(iii) Coinsurance. For all covered services other than mental illness/substance abuse services, the person shall pay not more than 30% coinsurance to an annual maximum of \$3,000 per person, \$6,000 per family unit.

5. PREVENTIVE SERVICES. Preventive services covered under a managed care plan shall not be subject to the annual deductible. Preventive services under an indemnity or fee-for-service plan may be subject to the annual deductible. Covered preventive services shall consist of at least the following:

(a) childhood immunizations as recommended by the Centers for Disease Control;

(b) well-baby care through age five in accordance with guidelines recommended by the American Academy of Pediatrics;

(c) for adults and adolescents, age, sex and risk appropriate preventive and screening services in accordance with guidelines recommended by the U.S. Preventive Services Task Force.

6. PRESCRIPTION DRUGS. Benefits for prescription drugs shall be subject to either:

(a) a copayment of not more than \$15 for generic, \$25 for brand-name formulary prescription drugs, and \$35 for non-formulary prescription drugs; or

(b) at the option of the carrier, benefits may be subject to a 30% maximum coinsurance. Carriers may use formularies.

7. OUTPATIENT REHABILITATION SERVICES. Benefits for outpatient rehabilitation services (e.g., physical therapy, occupational therapy, and speech therapy) shall be limited to not less than 10 visits for each illness or injury.

8. MENTAL ILLNESS AND/OR SUBSTANCE ABUSE SERVICES. Benefits for mental illness and/or substance abuse services may be subject to a deductible. Coinsurance may not exceed 50% of eligible expenses and may not apply toward the maximum. Benefits shall be one of the following, at the option of the carrier:

(a) benefits for inpatient services shall be limited to not less than ten days annually per person; benefits for outpatient services shall be limited to not less than 20 visits annually per person;

(b) mental health and/or substance abuse services for group policies will be subject to 31A-22-625 and 31A-22-720.

9. HOME HEALTH CARE. Benefits for home health care shall be limited to not less than 30 days in any 12 month period and shall consist of services provided, in accordance with a plan of care, in the home by a licensed community home health agency or an approved hospital program for home health care when the person is physically unable to obtain necessary medical care on an outpatient basis, would otherwise be confined as an inpatient, and is under the care of a physician. A "plan of care" means a written plan that:

(a) is approved by the physician prior to commencement of treatment;

(b) is based on the assessment data or physician orders; and

(c) identifies the patient's needs, who will provide needed services, how often, treatment goals, and anticipated outcomes.

Covered services shall not include health aide services furnished when the person is not receiving professional services of a registered nurse (RN), licensed practical nurse (LPN), or licensed vocational nurse (LVN), nor shall it include housekeeping services.

10. DURABLE MEDICAL EQUIPMENT. Benefits for durable medical equipment, rental or purchase, at the option of the carrier. Prosthetics and orthotics shall be limited to not less than \$5,000 per person for the entire period for which coverage is in effect.

11. COVERED SERVICES. Subject to medical necessity, provider network, and prior approval criteria established by the carrier, and subject to the limitations and exclusions and other terms and conditions of the policy, the following shall be covered services under the basic health care plan:

(a) inpatient hospital services:

(i) semi-private room accommodations;

(ii) ICU;

(iii) hospital services and supplies;

(b) ambulatory service facility services:

(i) birthing center services, when maternity care is covered;

(ii) surgical facility services;

(c) office preventive services;

(d) office medical services:

(i) diagnostic services; e.g., x-ray, lab tests;

(ii) therapeutic services; e.g., injection of medication;

(e) outpatient hospital services:

(i) emergency room services;

(ii) diagnostic services;

(iii) therapeutic services; e.g., chemotherapy, radiation therapy;

(iv) surgical facility services;

(f) inpatient medical services; e.g., physician visits;

(g) surgery;

(h) assistant-at-surgery;

(i) anesthesia, including children's general anesthesia for dental, if necessary;

(j) consultation;

(k) dental care for accidental injury to sound natural teeth;

(l) limited home health care;

(m) emergency ambulance transportation;

(n) prescription drugs;

(o) durable medical equipment, prosthetics and orthotics, as limited; and medical supplies;

(p) maternity services:

(i) for employer groups maternity benefits are provided on the same basis as benefits for sickness;

(ii) for individuals there are no maternity benefits;

(iii) benefits for complications of pregnancy are provided on the same basis as benefits for sickness. Complications of pregnancy will not be excluded solely because the pregnancy is a preexisting condition. "Complications of pregnancy" means an illness, distinct from pregnancy, affecting the mother and occurring during pregnancy and requiring separate and specific medical or surgical services for which separate and additional charges are incurred. In no event will the presence of complications of pregnancy result in benefits being provided for services normal to care and treatment of pregnancy and childbirth. Such normal services include but are not limited to hospitalization for childbirth or termination of pregnancy by any means, anesthesia services, ultrasound examinations, prenatal diagnostic laboratory services, antepartum and postpartum care, vaginal or cesarean delivery, threatened premature termination, premature termination, and routine nursery care of the newborn;

(iv) newborn and maternity inpatient time limits will conform to 31A-22-610.2. For conversion plans, maternity will be covered with the lesser of benefits originally on plan prior to conversion or the basic benefit plan. This coverage benefit is only for existing pregnancies, known or unknown at the time of conversion. Additional premium for pregnancy is not allowed;

(q) limited outpatient rehabilitation services;

(r) limited mental illness/substance abuse services;

(s) diabetes as required by 31A-22-626.

(t) inborn metabolic errors, PKU, nutritional benefits as required by 31A-22-623; and

(u) mastectomy as required by 31A-22-630 and 31A-22-719.

12. EXCLUSIONS. Benefits will not be provided for any of the following:

(a) services, supplies, or treatment provided prior to the effective date or after the termination date of coverage;

(b) charges in connection with a work-related injury or sickness for which coverage is provided under any state or federal worker's compensation, employer's liability, or occupational disease law;

(c) services, supplies, or treatment for which coverage is provided under any motor vehicle no-fault plan. When the person is required by law to have no-fault insurance in effect, this exclusion applies to charges up to the minimum coverage required by law whether or not such coverage is in effect.;

(d) services, supplies, or treatment for injury or sickness resulting from war or any act of war whether declared or undeclared;

(e) services, supplies, or treatment for injury or sickness resulting from service in the military of any country;

(f) services, supplies, or treatment for which benefits are provided under Medicare or any other government program except Medicaid;

(g) services, supplies, or treatment for which no charge is made or for which the person is not required to pay;

(h) services or supplies not incident to or necessary for the treatment of injury or sickness or which are not medically necessary, as determined by the carrier;

(i) treatment or prevention of an injury or sickness, including mental illness, by means of treatments, procedures, techniques, or therapy outside generally accepted health care practice;

(j) services, supplies, or treatment required as a result of an injury or sickness sustained while committing a felony or engaging in an illegal occupation;

(k) services to the extent benefits are provided by any governmental unit except as required by federal law for treatment of veterans in Veterans Administration or armed forces facilities for non-service related medical conditions;

(l) examinations, reports, or appearances in connection with legal proceedings; and services, supplies, or accommodations pursuant to a court order, whether or not injury or sickness is involved;

(m) investigative/experimental technology, treatment, procedure, facility, equipment, drug, device or supply, "technology," which does not, as determined by the carrier on a case by case basis, meet all of the following criteria:

(i) the technology must have final approval from appropriate governmental regulatory bodies, if applicable;

(ii) the technology must be available in significant number outside the clinical trial or research setting;

(iii) the available research regarding the technology must be substantial. For purposes of this definition, "substantial" means sufficient to allow the carrier to conclude that:

(A) the technology is both medically necessary and appropriate for the person's treatment;

(B) the technology is safe and efficacious; and

(C) more likely than not, the technology will be beneficial to the person's health;

(iv) the regional medical community as a whole must generally recognize the technology as appropriate;

(n) services in connection with any transplant of any whole organ or part thereof, live or cadaver, bone marrow, either as donor or recipient, or any artificial organ, except for the following:

(i) cornea transplants;

(ii) kidney transplants;

(iii) liver transplants for children under age 18 years;

(iv) bone marrow transplants for children under age 18 years;

and

(v) evaluation, treatment and therapy involving the use of myeloablative chemotherapy with autologous hematopoietic stem cell and/or colony stimulating factor support for children under age 18 years;

(o) custodial care. "Custodial care" means:

(i) institutional care, consisting mainly of room and board, which is for the primary purpose of controlling the person's environment; and

(ii) professional or personal care, consisting mainly of non-skilled nursing services with or without medical supervision, which is for the primary purpose of managing the person's disability or maintaining the person's degree of recovery already attained without reasonable expectation of significant further recovery.

"Custodial care" does not mean outpatient palliative and supportive care provided by a hospice program to a person who is terminally ill with a life expectancy of not more than six months and is in lieu of institutional or inpatient hospital care;

(p) services, supplies, or treatment in connection with cosmetic or reconstructive procedures which alter appearance but do not restore or improve impaired physical function or which are performed for psychological or emotional purposes, except when performed while a person is covered under this policy for the following:

(i) repair of defects resulting from an accident occurring within 90 days of the effective date of this policy under creditable coverage or occurring during this policy;

(ii) replacement of diseased tissue surgically removed for illness occurring within 90 days of this policy under creditable coverage or occurring during this policy;

(iii) treatment of a birth defect in a child who has met the pre-existing conditions requirement since birth or date of placement for adoption; and

(iv) mastectomy reconstruction as required by 31A-22-630 and 31A-22-719;

(q) dental services. This exclusion will not apply if dental services are required as a result of an accidental injury which occurs while coverage is in force, dental services are received within two years following the accidental injury, and the person has been continuously covered from the date of the accidental injury through the date the dental services are provided;

(r) eyeglasses, contact lenses and/or servicing of eyeglasses and/or contact lenses. This exclusion does not apply to contact lenses in the case of keratoconus or post-cataract surgery when the

contact lenses are medically necessary in the treatment of the condition;

(s) medical, non-surgical, care of weak, strained, flat, unstable or unbalanced feet routine foot care. The exclusion of routine foot care does not apply to cutting or removal of corns, calluses, or nails when provided to a person who has a systemic disease, such as diabetes with peripheral neuropathy or circulatory insufficiency, of such severity that unskilled performance of the procedure would be hazardous;

(t) orthopedic or corrective shoes, foot orthotics, or any other supportive devices for the feet;

(u) drugs and medicines which do not bear the legend "Caution - federal law prohibits dispensing without a prescription" and/or which are not dispensed by a licensed pharmacist;

(v) charges in connection with jaw realignment procedures including, but not limited to, osteotomy, upper or lower jaw augmentation or reduction procedures, and orthognathic surgery; charges in connection with treatment of temporomandibular joint (TMJ) dysfunction, including surgical procedures and injections of the TMJ, physical therapy, splints, and orthodontic appliances. This exclusion will not apply to:

(i) the initial diagnostic evaluation of TMJ dysfunction;

(ii) surgical correction of the TMJ required as a result of an accidental injury which occurs while this coverage is in force; and

(iii) physical therapy services related to and subsequent to covered TMJ surgery;

(w) treatment of obesity by means of surgical, medical or medication services and regardless of associated medical, emotional, or psychological conditions;

(x) services or supplies in connection with genetic studies;

~~(y) implantable contraceptives (hormonal or other);~~

~~(z) reversal of a sterilization procedure;~~

~~(aa) any treatment for or diagnosis of infertility, artificial insemination, in vitro fertilization, and any other male or female dysfunction;~~

~~(bb) vision testing, vision training;~~

~~(cc) radial keratotomy, laser and any surgical correction of errors of refraction;~~

~~(dd) educational service or counseling, including weight control clinics, stop smoking clinics, cholesterol counseling, exercise programs or other types of physical fitness training, except for those benefits required by 31A-22-626;~~

~~(ee) marriage counseling; family counseling; counseling for educational, social, occupational, religious, or other similar maladjustment; behavior modification, biofeedback, or rest cures as treatment for mental disorders; sensitivity or stress-management training; self-help training; and residential treatment;~~

~~(ff) treatment for mental disorders which are irreversible or for which there is little or no reasonable expectation for improvement, including mental retardation, personality disorders, and chronic organic brain disease. This exclusion does not apply to the initial assessment for diagnosis of the condition;~~

~~(gg) psychotherapy, counseling, or other services in connection with learning disabilities, disruptive behavior disorders, conduct disorders, psychosexual disorders, or transsexualism. This exclusion does not apply to the initial assessment for diagnosis of the condition;~~

~~(hh) vitamins, special formulas, special diets, and food supplements except as provided by a hospital or skilled nursing facility during a confinement for which benefits are available, except as outlined in 31A-22-623;~~

~~(ii) any devices used to aid hearing, including cochlear implants, the fitting of such devices and any routine hearing tests;~~

~~(jj) acupuncture or acupressure;~~

~~(kk) speech therapy for psychosocial speech delays;~~

~~(ll) all shipping, handling, or postage charges except as incidentally provided, without a separate charge, in connection with covered services or supplies;~~

~~(mm) interest or finance charges except as specifically required by law;~~

~~(nn) charges for missed appointments, telephone consultations, and clerical services for completion of special reports or claim forms;~~

~~[(aa)]~~(oo) travel expenses, whether or not prescribed;
~~[(ee)]~~(pp) care, except urgent or emergency care, rendered
 outside the United States;
~~[(pp)]~~(qq) services provided by a member of the person's
 immediate family or household; and
~~[(qq)]~~(rr) autopsy procedures[-]_.

I. The specified plan is to be filed with the department before use.

J. Conversion coverage provided pursuant to Section 31A-22-708, may provide additional benefits in addition to the Basic Health Care Plan.

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KEY: insurance
2001

31A-22-613.5



End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1996).

Environmental Quality, Drinking Water **R309-101** General Administration of Drinking Water Program

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 23662
FILED: 04/16/2001, 11:23
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 19, Chapter 4, Safe Drinking Water Act, gives the Drinking Water Board the authority to promulgate rules that govern the construction of facilities for, and quality of water provided by public water systems.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the Division with regard to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule defines a Public Water System (PWS) in addition to the categories of public water systems which determine the amount of monitoring that is required of each PWS. The rule gives authority for Division personnel and local health departments to inspect PWS in order to evaluate their condition and therefore the safety and integrity of the water delivered to the public. In addition this rule gives authority to the Drinking Water Board to require plan approval for PWS construction, overall evaluation of PWS, and issue administrative orders when appropriate in order to protect the

public from tainted water supplies. The continuation of this rule is necessary to protect the quality and safety of the drinking water and thereby public health.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Drinking Water
150 North 1950 West
PO Box 144830
Salt Lake City, UT 84114-4830, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ken Bousfield at the above address, by phone at (801) 536-4207 or (801) 536-0089, by FAX at (801) 536-4211, or Internet E-mail at kbousfiel@deq.state.ut.us or pfauver@deq.state.ut.us.

AUTHORIZED BY: Kevin W. Brown, Director

EFFECTIVE: 04/16/2001



Environmental Quality, Drinking Water **R309-102** Responsibilities of Public Water System Owners and Operators

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 23663
FILED: 04/16/2001, 11:23
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE

PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 19, Chapter 4, Safe Drinking Water Act, gives the Drinking Water Board the authority to promulgate rules that govern the construction of facilities for, and quality of water provided by public water systems.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the Division with regard to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule defines the requirements for plan approval of Public Water System (PWS) construction projects. In addition this rule outlines routine operation and maintenance that must be carried out in order to protect the quality of the water, i.e., disinfection requirements, cross connection control program, requirement to have trained operators and acceptable products for addition to the water or coating for the pipings. The continuation of this rule is necessary to protect the quality and safety of the drinking water and thereby public health.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Drinking Water
150 North 1950 West
PO Box 144830
Salt Lake City, UT 84114-4830, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ken Bousfield at the above address, by phone at (801) 536-4207 or (801) 536-0089, by FAX at (801) 536-4211, or Internet E-mail at kbousfiel@deq.state.ut.us or pfauver@deq.state.ut.us.

AUTHORIZED BY: Kevin W. Brown, Director

EFFECTIVE: 04/16/2001



**Environmental Quality, Drinking Water
R309-103
Water Quality Maximum Contaminant
Levels (MCLs)**

**FIVE-YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 23664
FILED: 04/16/2001, 11:23
RECEIVED BY: NL

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 19, Chapter 4, Safe Drinking Water Act, gives the Drinking Water Board the authority to promulgate rules that govern the construction of facilities for, and quality of water provided by public water systems.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the Division with regard to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule states the quality standard, Maximum Contaminant Levels (MCLs), for the contaminants that are required to be monitored by Public Water Systems (PWS). The MCLs have been set by US Environmental Protection Agency (EPA) under authority of the Federal Safe Drinking Water Act to levels that are protective of public health for both short term (acute) and long term health effects. The Drinking Water Board is required to adopt quality standards that are at least as stringent as US EPA (40 CFR 141 and 142). The continuation of this rule is necessary to protect the quality and safety of the drinking water and thereby public health and to retain primacy of the drinking water program.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Environmental Quality
Drinking Water
150 North 1950 West
PO Box 144830
Salt Lake City, UT 84114-4830, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ken Bousfield at the above address, by phone at (801) 536-4207 or (801) 536-0089, by FAX at (801) 536-4211, or Internet E-mail at kbousfiel@deq.state.ut.us or pfauver@deq.state.ut.us.

AUTHORIZED BY: Kevin W. Brown, Director

EFFECTIVE: 04/16/2001



**Environmental Quality, Drinking Water
R309-104
Monitoring, Reporting and Public
Notification**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 23665
FILED: 04/16/2001, 11:23
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 19, Chapter 4, Safe Drinking Water Act, gives the Drinking Water Board the authority to promulgate rules that govern the construction of facilities for, and quality of water provided by public water systems.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the Division with regard to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule states the type of samples that are required per category of public water system, the required location for the samples, and the frequency for collecting the samples all of which are required in 40 CFR 141 and 142 by the US Environmental Protection Agency (EPA) under authority of the Federal Safe Drinking Water Act. The Drinking Water Board is required to adopt rules that are as stringent as the federal rules in order to maintain primacy for enforcement of the drinking water program. In addition to public notification requirements, reporting and recording requirements are outlined in this rule. The continuation of this rule is necessary to protect the quality and safety of the drinking water and thereby public health and to maintain primacy of the drinking water program.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Environmental Quality
Drinking Water
150 North 1950 West
PO Box 144830
Salt Lake City, UT 84114-4830, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ken Bousfield at the above address, by phone at (801) 536-4207 or (801) 536-0089, by FAX at (801) 536-4211, or Internet E-mail at kbousfiel@deq.state.ut.us or pfauver@deq.state.ut.us.

AUTHORIZED BY: Kevin W. Brown, Director

EFFECTIVE: 04/16/2001

Human Services, Administration
R495-862
Communicable Disease Control Act

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 23605
FILED: 04/04/2001, 11:05
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Requires the Department of Human Services and all units of the Department to be in compliance with all established public health guidelines, including the Communicable Disease Control Act (UCA Section 26-6-1 et seq.). Specific authority to promulgate rules is found in Sections 62A-1-110 and 62A-1-111.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule requires the Department and all units of the Department to comply with public health guidelines, and ensures that the public and Department employees are protected by these actions.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Human Services
Administration
319
120 North 200 West
PO Box 45500
Salt Lake City, UT 84145-0500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dawn Hibl at the above address, by phone at (801) 538-9877, by FAX at (801) 538-4016, or Internet E-mail at dhibl@hs.state.ut.us.

AUTHORIZED BY: Robin Arnold-Williams, Executive Director

EFFECTIVE: 04/04/2001



Money Management Council,
Administration

R628-10

Rating Requirements to Be a Permitted
Out-of-State Depository

**FIVE-YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 23624
FILED: 04/11/2001, 11:42
RECEIVED BY: NL

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 51-7-18(2)(b) allows the Council to make rules governing the conditions for maintaining deposits at a permitted depository. Subsection 51-7-17(4) allows public treasurers to invest only in out of state deposit instruments that have met the quality criteria set forth in rules made by the Council.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The potential for investment in these types of instruments is there and guidelines need to be in place. There is no opposition to this rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Money Management Council
Administration
215 State Capitol
350 North State Street
215 State Capitol
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ann Pedroza at the above address, by phone at (801) 538-1883, by FAX at (801) 538-1465, or Internet E-mail at apedroza.stmain@state.ut.us.

AUTHORIZED BY: Edward T. Alter, State Treasurer

EFFECTIVE: 04/11/2001



Natural Resources, Wildlife Resources
R657-3

Collection, Importation, Transportation,
and Possession of Zoological Animals

**FIVE-YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 23673
FILED: 04/16/2001, 17:55
RECEIVED BY: NL

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized to govern the collection, importation, exportation, transportation, and possession of zoological animals and their parts. This governing protects the health, welfare and safety of the public, domestic animals, wild animals and Utah's ecological systems.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division of Wildlife Resources and the Wildlife Board have received several comments, both in support and opposition to Rule R657-3, Collection, Importation, Transportation, and Possession of Zoological Animals. Written comments received in opposition to the rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council's and Wildlife Board's agenda for review and discussion during the review process for taking public input. The public is welcome to view the Regional Advisory Council minutes, Wildlife Board minutes and administrative record for this rule at the Division of Wildlife Resources.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: First, Rule R657-3 provides the procedures, standards, and requirements for the collection, importation, exportation, transportation, and possession of zoological animals and their parts. Second, this rule provides the standards and procedures for the classification of zoological animals and their parts for the collection, importation, or possession of those zoological animals and their parts. And finally, this rule is provides the standards in evaluating applications for a Certificate of Registration (COR) that involve the collection, importation or possession of zoological animals. The provisions adopted in this rule are effective in governing these activities. Continuation of this rule is necessary for continued success of this program.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING
REGULAR BUSINESS HOURS, AT:

Natural Resources
Wildlife Resources
Suite 2110
1594 West North Temple
PO Box 146301
Salt Lake City, UT 84114-6301, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at (801) 538-
4707, by FAX at (801) 538-4709, or Internet E-mail at
nrdwr.dsundell@email.state.ut.us.

AUTHORIZED BY: John Kimball, Director

EFFECTIVE: 04/16/2001



End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Commerce

Occupational and Professional Licensing

No. 23518 (AMD): R156-54-302b. Examination Requirements - Radiology Practical Technician.
Published: March 1, 2001
Effective: April 3, 2001

No. 23524 (AMD): R156-55d-603. Operating Standards - Alarm Installer.
Published: March 1, 2001
Effective: April 3, 2001

Real Estate

No. 23526 (NEW): R162-209. Administrative Proceedings.
Published: March 1, 2001
Effective: April 13, 2001

Crime Victim Reparations

Administration

No. 23527 (AMD): R270-1. Award and Reparations Standards.
Published: March 1, 2001
Effective: April 3, 2001

Environmental Quality

Air Quality

No. 23407 (AMD): R307-103-2. Initial Proceedings.
Published: February 1, 2001
Effective: April 12, 2001

Drinking Water

No. 23394 (AMD): R309-208 (Changed to R309-535). Facility Design and Operation: Miscellaneous Treatment Methods.
Published: January 15, 2001
Effective: May 1, 2001

Solid and Hazardous Waste

No. 23409 (AMD): R315-1. Utah Hazardous Waste Definitions and References.
Published: February 1, 2001
Effective: April 20, 2001

No. 23410 (AMD): R315-2. General Requirements - Identification and Listing of Hazardous Waste.
Published: February 1, 2001
Effective: April 20, 2001

No. 23412 (AMD): R315-5-3. Pre-Transport Requirements.
Published: February 1, 2001
Effective: April 20, 2001

No. 23415 (AMD): R315-13-1. Land Disposal Restrictions.
Published: February 1, 2001
Effective: April 20, 2001

No. 23416 (AMD): R315-14-7. Hazardous Waste Burned in Boilers and Industrial Furnaces.
Published: February 1, 2001
Effective: April 20, 2001

No. 23417 (AMD): R315-16. Standards for Universal Waste Management.
Published: February 1, 2001
Effective: April 20, 2001

No. 23418 (AMD): R315-50. Appendices.
Published: February 1, 2001
Effective: April 20, 2001

Health

Children's Health Insurance Program

No. 23458 (AMD): R382-10. Eligibility.
Published: February 15, 2001
Effective: April 4, 2001

Health Care Financing, Coverage and Reimbursement Policy

No. 23459 (AMD): R414-306. Program Benefits.
Published: February 15, 2001
Effective: April 4, 2001

No. 23452 (REP): R414-310. Demonstration Programs.
Published: February 15, 2001
Effective: April 4, 2001

NOTICES OF RULE EFFECTIVE DATES

Labor Commission

Antidiscrimination and Labor, Antidiscrimination
No. 23515 (AMD): R606-1-3. Procedures--Request
for Agency Action and Investigation File.
Published: March 1, 2001
Effective: April 3, 2001

Natural Resources

Wildlife Resources

No. 23528 (AMD): R657-5. Taking Big Game.
Published: March 1, 2001
Effective: April 3, 2001

No. 23530 (AMD): R657-39. Regional Advisory
Councils.
Published: March 1, 2001
Effective: April 3, 2001

No. 23532 (AMD): R657-40. Wildlife Rehabilitation.
Published: March 1, 2001
Effective: April 3, 2001

No. 23533 (AMD): R657-42-6. Reallocation of
Permits.
Published: March 1, 2001
Effective: April 3, 2001

End of the Notices of Rule Effective Dates Section

Tax Commission

Administration

No. 23403 (AMD): R861-1A-36. Signatures Defined
Pursuant to Utah Code Ann. Sections 41-1a-209, 59-
10-512, and 59-12-107.
Published: February 1, 2001
Effective: April 11, 2001

Property Tax

No. 23475 (AMD): R884-24P-49. Calculating the Utah
Apportioned Value of a Rail Car Fleet Pursuant to Utah
Code Ann. Section 59-2-201.
Published: February 15, 2001
Effective: April 11, 2001

Workforce Services

Workforce Information and Payment Services

No. 23525 (AMD): R994-406-304. Appeal Time
Limitation for Decisions Which are Mailed.
Published: March 1, 2001
Effective: April 5, 2001

RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2001, including notices of effective date received through April 16, 2001, the effective dates of which are no later than May 1, 2001. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: Because of space constraints, the Keyword Index is not included in this *Bulletin*.

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.state.ut.us/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i>
5YR = Five-Year Review	
EXD = Expired	

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R27-2	Fleet Operations Adjudicative Proceedings	23522	5YR	02/08/2001	2001-5/39
R27-7	Safety and Loss Prevention of State Vehicles	23345	NEW	01/31/2001	2000-24/6
<u>Fleet Operations, Surplus Property</u>					
R28-2	Surplus Firearms	23523	5YR	02/08/2001	2001-5/39
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R58-13	Custom Exempt Slaughter	23587	5YR	03/30/2001	2001-8/84
R58-15	Collection of Annual Fees for the Wildlife Damage Prevention Act	23588	5YR	03/30/2001	2001-8/85
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R65-3	Utah Turkey Marketing Order	23544	5YR	03/06/2001	2001-7/45
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R68-2	Utah Commercial Feed Act Governing Feed	23435	5YR	01/16/2001	2001-3/95
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R70-420	Chickens	23428	REP	03/06/2001	2001-3/5
R70-430	Turkeys	23429	REP	03/06/2001	2001-3/6
R70-610	Uniform Retail Wheat Standards of Identity	23430	5YR	01/16/2001	2001-3/96
R70-610	Uniform Retail Wheat Standards and Identity	23431	NSC	02/01/2001	Not Printed
R70-620	Enrichment of Flour and Cereal Products	23432	5YR	01/16/2001	2001-3/97
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R156-11a	Cosmetologist/Barber Licensing Act Rules	23260	AMD	see CPR	2000-22/5
R156-11a	Cosmetologist/Barber Licensing Act Rules	23260	CPR	03/06/2001	2001-3/79
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R156-28	Veterinary Practice Act Rules	23309	AMD	see CPR	2000-23/15
R156-28	Veterinary Practice Act Rules	23309	CPR	03/08/2001	2001-3/80
R156-37-502	Unprofessional Conduct	23401	NSC	02/01/2001	Not Printed
R156-47b	Massage Therapy Practice Act Rules	23535	5YR	02/26/2001	2001-6/49
R156-54-302b	Examination Requirements - Radiology Practical Technician	23518	AMD	04/03/2001	2001-5/7
R156-55d-603	Operating Standards - Alarm Installer	23524	AMD	04/03/2001	2001-5/8
R156-69	Dentist and Dental Hygienist Practice Act Rules	23141	AMD	see CPR	2000-19/10
R156-69	Dentist and Dental Hygienist Practice Act Rules	23141	CPR	02/15/2001	2001-2/17
R156-73	Chiropractic Physician Practice Act Rules	23390	AMD	02/15/2001	2001-2/2
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R199-10	Procedures in Case of Inability to Formulate Contract for Alleviation of Impact	23576	NSC	04/01/2001	Not Printed
<u>Community Development, Library</u>					
R223-2	Public Library online Access for Eligibility to receive Public Funds	23352	NEW	02/15/2001	2000-24/11
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R251-102	Release of Communicable Disease Information	23511	5YR	02/05/2001	2001-5/40
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R251-301	Employment, Educational or Vocational Training for Community Center residents	23400	AMD	03/13/2001	2001-3/8
R251-709	Transportation of Inmates	23570	5YR	03/27/2001	2001-8/87
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R307-103-2	Initial Proceedings	23407	AMD	04/12/2001	2001-3/13
R307-204	Emissions Standards: Smoke Management	23139	NEW	see CPR	2000-19/14
R307-204	Emissions Standards: Smoke Management	23139	CPR	03/06/2001	2001-3/81
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R309-103	Water Quality Maximum Contaminant Levels (MCLs)	23664	5YR	04/16/2001	2001-9/141
R309-104	Monitoring, Reporting and Public Notification	23665	5YR	04/16/2001	2001-9/141
R309-150	Water System Rating Criteria	23252	AMD	01/04/2001	2000-22/33
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R315-2	General Requirements - Identification and Listing of Hazardous Waste	23410	AMD	04/20/2001	2001-3/16
R315-5-3	Pre-Transport Requirements	23412	AMD	04/20/2001	2001-3/30
R315-13-1	Land Disposal Restrictions	23415	AMD	04/20/2001	2001-3/40
R315-14-7	Hazardous Waste Burned in Boilers and Industrial Furnaces	23416	AMD	04/20/2001	2001-3/41
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R315-315-8	Petroleum Contaminated Soils	22858	CPR (First)	see CPR (Second)	2000-17/67
R315-315-8	Petroleum Contaminated Soils	22858	CPR (Second)	01/05/2001	2000-23/58
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R317-7	Underground Injection Control (UIC) Program	23162	CPR	01/23/2001	2000-24/75
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R414-306	Program Benefits	23459	AMD	04/04/2001	2001-4/11
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R426-7	Emergency Medical Services Prehospital Data System Rules	23186	NEW	01/30/2001	2000-20/29
R426-8	Emergency Medical Services Per Capita Grants Program Rules	23202	NEW	01/30/2001	2000-21/14
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R432-106	Specialty Hospital-Critical Access	23292	NEW	01/23/2001	2000-23/31
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<u>Health Systems Improvement, Health Facility Licensure (Changed to Health Systems Improvement, Licensing)</u>					
R432-1	General Health Care Facility Rules	23477	NSC	04/01/2001	Not Printed
R432-2	General Licensing Provisions	23478	NSC	04/01/2001	Not Printed
R432-3	General Health Care Facility Rules Inspection and Enforcement	23479	NSC	04/01/2001	Not Printed
R432-4	General Construction	23480	NSC	04/01/2001	Not Printed
R432-5	Nursing Facility Construction	23481	NSC	04/01/2001	Not Printed
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R432-10	Specialty Hospital - Chronic Disease Construction Rule	23486	NSC	04/01/2001	Not Printed
R432-11	Orthopedic Hospital Construction	23487	NSC	04/01/2001	Not Printed
R432-12	Small Health Care Facility (Four to Sixteen Beds) Construction Rule	23488	NSC	04/01/2001	Not Printed
R432-13	Freestanding Ambulatory Surgical Center Construction Rule	23489	NSC	04/01/2001	Not Printed
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R432-35	Background Screening	23493	NSC	04/01/2001	Not Printed
R432-100	General Hospital Standards	23494	NSC	04/01/2001	Not Printed
R432-101	Specialty Hospital - Psychiatric	23495	NSC	04/01/2001	Not Printed
R432-102	Specialty Hospital - Chemical Dependency/Substance Abuse	23496	NSC	04/01/2001	Not Printed
R432-103	Specialty Hospital - Rehabilitation	23497	NSC	04/01/2001	Not Printed
R432-104	Specialty Hospital - Chronic Disease	23498	NSC	04/01/2001	Not Printed
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R432-151	Mental Disease Facility	23501	NSC	04/01/2001	Not Printed
R432-152	Mental Retardation Facility	23502	NSC	04/01/2001	Not Printed
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R432-201	Mental Retardation Facility: Supplement "A" to the Small Health Care Facility Rule	23504	NSC	04/01/2001	Not Printed
R432-270	Assisted Living Facilities	23505	NSC	04/01/2001	Not Printed
R432-300	Small Health Care Facility - Type N	23506	NSC	04/01/2001	Not Printed
R432-500	Freestanding Ambulatory Surgical Center Rules	23567	NSC	04/01/2001	Not Printed
R432-550	Birthing Centers (Five or Less Birth Rooms)	23507	NSC	04/01/2001	Not Printed
R432-600	Abortion Clinic Rule	23508	NSC	04/01/2001	Not Printed
R432-650	End Stage Renal Disease Facility Rules	23562	NSC	04/01/2001	Not Printed
R432-700	Home Health Agency Rule	23509	NSC	04/01/2001	Not Printed
R432-750	Hospice Rule	23510	NSC	04/01/2001	Not Printed
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HUMAN SERVICES

Administration

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Administration, Administrative Services, Licensing

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R590-205	Privacy of Consumer Information Compliance Deadline	23247	NEW	01/11/2001	2000-22/35
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R612-2-11	Surgical Assistants' Fees	23466	NSC	02/15/2001	Not Printed
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